

1985 ZONA ROSA TERRORIST ATTACK SAN SALVADOR, EL SALVADOR

HEARINGS
BEFORE THE
SELECT COMMITTEE
ON INTELLIGENCE
OF THE
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS
FIRST SESSION
ON

1985 ZONA ROSA TERRORIST ATTACK SAN SALVADOR, EL SALVADOR

TUESDAY, MAY 20 AND WEDNESDAY, JULY 30, 1997

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1985 ZONA ROSA TERRORIST ATTACK

TUESDAY, MAY 20, 1997

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The select committee met, pursuant to notice, at 10:07 a.m., in room SH-216, Hart Senate Office Building, the Honorable Richard Shelby (chairman of the committee) presiding.

Present: Senators Shelby, Chafee, DeWine, Kerrey of Nebraska, and Glenn.

Also present: Taylor Lawrence, Staff Director; Chris Straub, minority staff director; Suzanne Spaulding, chief counsel; and Kathleen McGhee, chief clerk.

Chairman SHELBY. The Committee will come to order.

We are here today because of a terrible event that took place almost 12 years ago, on June 19, 1985.

On that day, four U.S. Marine embassy guards, two American civilians, six Salvadorans and citizens of other countries were brutally murdered as they sat at a sidewalk cafe, shown in the picture on display over here, in the Zona Rosa district of San Salvador, an upscale neighborhood located near the Embassy, as shown on the maps we have before you.

There was no warning. The Marines were not in uniform; they were not on duty.

They were shot down in cold blood, by members of a Marxist guerrilla group fighting against the democratically-elected Salvadoran government, for one reason: because they were Americans.

We have their pictures here today—you see it—to honor their memories, because their families are here today—a lot of their families.

Who were these people?

Staff Sergeant Bobby Joe Dickson, of Northport, Alabama, was 27 years old. His stepfather and mother, Mr. Joe Dickson and Ms. Betty Malone, are here with us today.

Sergeant Thomas Taschner Handwork, of Dayton, Ohio, was 24. His parents, Mr. and Mrs. John and Trudy Handwork, regret that they could not be here with us today.

Corporal Patrick Robert Kwiatkowski was 20 years old. He was from Wisconsin. His sister and brother-in-law, Mrs. Brenda Whitt and Mr. Andy Whitt are here with us today.

Corporal Gregory Howard Weber, of Cincinnati, Ohio, only 22 years old. His parents, Mr. John Weber and Mrs. Marlene Weber are with us here today.

The American civilians killed in the attack were George Viney, 48 years old, of Miami, Florida, and Robert Alvidrez, 47, from Lexington, Massachusetts.

I want to thank these family members for coming all the way to Washington. I know this is a painful journey for you.

I want to especially thank Betty Malone, whose dedication to finding the truth about her son's death, and her son's killers, helped us get to where we are today.

But let's return to 1985. This all may be easier to follow if you look at the time-line charts that have been handed out. Members of the Committee have these charts in their hearing packets.

In the wake of the Zona Rosa murders, the U.S. and Salvadoran governments immediately announced then an aggressive effort to ensure that the killers are captured and punished. The FBI is brought in to assist the Salvadoran government.

On June 21, the Central American Revolutionary Workers Party, known by its Spanish-language acronym PRTC, claims credit for the attack in a communique signed by Fernando Gallardo, an alias of guerrilla leader Pedro Antonio Andrade.

As a known PRTC leader, Andrade—under a different alias, Mario Gonzalez—is an early suspect. By August 1985—weeks after the attack—Andrade had been identified by several captured PRTC members, including one of the gunmen and a senior PRTC official, as a key figure in the Zona Rosa massacre.

In January 1986, another senior PRTC official describes Andrade as, quote, the "intellectual author" of the Zona Rosa massacre.

Over the next five years, several of the PRTC members who were involved in the attack are arrested, tried, and convicted by Salvadoran authorities.

In addition, the U.S. Department of Justice pursues indictments against the suspects, but determines that the admissible evidence will only support one indictment, against Zona Rosa gunman William Celios Rivas Bolanos.

In September 1989, he is charged in U.S. court with murder of an internationally protected person under Title 18 U.S. Code Section 1116, and conspiracy to murder an internationally protected person under Title 18 U.S. Code Section 1117.

However, subsequent information and events undermine the value of the chief witness against Rivas—as waiter—and as a result, he is never prosecuted in the United States.

For years after the Zona Rosa massacre, Andrade avoids capture. In May of 1989, Andrade is arrested by the Salvadoran government and admits to using the alias "Mario Gonzalez".

He provides information on insurgent operations and the guerrilla infrastructure, which is shared with the U.S. government. Shortly after his arrest, Andrade requests that he and his family be granted entry into the United States in exchange for his cooperation.

At this point, several U.S. government agencies are interested in Andrade, but for different reasons.

The CIA, for example, wants intelligence on the guerrillas, which continue to wage war on the Salvadoran government.

The FBI and Justice Department want to investigate and, if possible, indict and prosecute Andrade for the Zona Rosa murders.

To avoid possibly having to appear in a court proceeding, the CIA decides not to seek intelligence information from Andrade directly, but relays questions for him through the embassy's legal officer.

On June 6 through 8, an FBI agent and the embassy legal officer question Andrade about his alleged involvement in the Zona Rosa murders. He denies participating, and says he was asked to make logistical and medical arrangements to support an attack "on gringos", but did not do so.

After an initial polygraph is inconclusive, a second polygraph reportedly supports Andrade's contention that he was not involved in the planning and execution of the attack.

In the fall 1989, there are extensive interagency discussions on what to do with Andrade.

In September 1989, the CIA and Embassy ask if Andrade can be admitted to the United States in exchange for his cooperation in providing intelligence to the CIA.

In October 1989, the CIA authorizes payment of \$20,000 for re-settlement costs and temporary assistance to Andrade's family in return for his cooperation.

Andrade's wife and family move to the United States. The CIA also pays \$22,000 to the Salvadoran government as reimbursement for the costs of Andrade's detention.

Justice Department prosecutors at this time are convinced of Andrade's involvement in the attack, despite a lack of admissible evidence. They resist granting him entry into this country.

In an interagency meeting on October 5, it is agreed that Andrade would not be paroled or admitted into the United States unless (1) it could be shown that he was not involved in the Zona Rosa killings, and (2) all the participating agencies agreed on the parole, or entry into the United States.

In December 1989, the Justice Department prosecutors remain opposed to parole or entry into the United States. The CIA headquarters reviews intelligence files and determines at that point in time that Andrade was involved in the murders, and informs the CIA station in San Salvador.

Three months later, on March 27, 1990, the embassy there sends a cable to the State Department here, visa department, requesting Andrade's parole, or entry into the United States, based on the polygraph results, the value to the intelligence he has provided, and the belief that his life was endangered in El Salvador.

Informational copies of this cable are sent to the CIA and FBI. The cable, however, is not sent to the Justice Department prosecutors. Copies are neither directed to the State Department legal officer, nor the CIA legal office. These offices are also not informed of the parole or entry request by those entities within their agencies that have received the cables.

Just how and why the parole or entry request is made at that time is unclear.

Embassy officials say later that they sought parole, or entry into the United States, for Andrade at the CIA's request. They also say the CIA never told them that the CIA and Justice Department had determined that Andrade was, in fact, heavily involved in the 1985 murders.

CIA officials say, in effect, the opposite: that they did inform the embassy about Justice and CIA conclusions about Andrade's involvement, and that they did not know anything about the parole or entry request into the United States.

However, the facts show that an INS official grants Andrade parole in April 1990. And then, just nine days after the statute of limitations for the prosecution of his crimes expires, Andrade enters the United States with an airline ticket paid for by the CIA.

Three years later, Andrade's permission to remain in the U.S. expires on April 26, 1993. Nothing is done at that time to follow up on his status or to deport him.

It is likely that Andrade would have lived undisturbed in this country to this day, as an illegal alien, were it not for a "60 Minutes" interview broadcast on May 21, 1995, which you will see momentarily, and the efforts of Mrs. Betty Malone.

In the course of the "60 Minutes" broadcast, reporter Ed Bradley claims that one of the interviewees, former guerrilla leader Gilberto Osorio, an American citizen now living in the United States, quote, "helped plan the assassination of four Marines at an outdoor cafe."

Betty Malone, of Northport, Alabama, who is with us today, mother of Staff Sergeant Bobby Joe Dickson, was watching "60 Minutes" that night, and she was appalled by what she saw. She contacted me then, as her Senator, and I was appalled and horrified. I asked then the Director of Central Intelligence if the Osorio story was true. But before we received a response, the Senate Intelligence Committee staff obtained information about another suspect who was living in the United States—Pedro Andrade, who we have been talking about.

In October of 1995 we were told by the CIA that there was no evidence that Osorio had any direct involvement in the Zona Rosa murders. In December 1995, Osorio himself denied it.

In February 1996, this Committee asked the President of the United States to conduct an investigation of the Zona Rosa affair, and the actions of U.S. government agencies with respect to the political and military response to the massacre, the subsequent investigations and prosecutions, and the relationships of U.S. government agencies with the participants and alleged participants in the massacre.

On September 20, 1996 Andrade was arrested here in the United States, where he had lived, undisturbed, since 1990.

On November 18, Andrade applied for political asylum in the United States.

In March of this year, 1997, Andrade's request for asylum was denied. The Federal judge rejected the request based on a, quote "preponderance of evidence" indicating that Andrade was involved in the Zona Rosa killings. In April, Andrade appealed. His appeal is pending, and he remains in this country under detention.

That brings us to today.

It pains me to say this, but at no time, to my knowledge, during the events I have just related, despite several requests for information, did the United States government contact the families to provide further details of their sons' deaths, or the pursuit of their killers, or of Andrade's parole into the United States.

Now, 12 years later, after the Zona Rosa murders and seven years after Pedro Andrade was allowed into the United States, we will hear from the families and friends of the victims about their dealings with the government.

We will hear their views on the government's actions in this case. We will then review the actions of U.S. government officials with respect to the entry of Pedro Andrade into the United States.

The reports of the Inspectors General of the CIA, State Department, Defense Department, and Department of Justice provide the basic factual outline of the events beginning June 19, 1985 that I have been through.

But they leave many, many unanswered questions, either because the questions are not addressed, or because the answers provided are contradictory.

Today we hope to answer some of those questions.

My purpose here today is not to engage in hindsight, in the sense of judging the actions of the past by what we know today, but rather to consider the information available to the decisionmakers at the time, and the conditions under which they had to make their decisions.

We need to establish the facts, first so we can establish appropriate accountability, and second, so we can develop procedures to ensure that the mistakes of the past 12 years are not repeated.

We need to know why Pedro Andrade was admitted to the United States in 1990, despite all the evidence linking him to the killings of six Americans.

We need to know whether the decisionmakers had before them all of the information available at that time within the U.S. government, and if not, why not? Was information not shared between agencies? Or perhaps within agencies?

We need to reexamine the balance between intelligence gathering and law enforcement concerns—an issue that continues to pose problems in counterterrorism, counternarcotics, and other operations today.

When we have answered those questions, then I hope we can proceed by changes in procedures, in regulations, or in our laws to ensure that these problems do not occur in the future.

For a few minutes we will now view some of the original network news footage from 1985. I believe it provides context for the statements I have just made. And I want to warn everyone here that it contains some graphic scenes, but the families felt this footage underscores the tragedy that occurred and that we should never forget.

If we could start the film.

[A film is shown.]

Chairman SHELBY. Senator Kerrey.

Vice Chairman KERREY. Thank you, Mr. Chairman, and thank you, especially for pursuing this issue so tenaciously. The knowledge we have today of this event, and it's aftermath, is principally due to your efforts. I concur in the goals he has set for us today. We need to review the decisionmaking processes by which Mr. Andrade was brought to this country, and use what we learn to change our procedures for rewarding intelligence informants, if

that role was in fact the basis of Mr. Andrade's admission to this country.

The decision to admit Mr. Andrade was made in the Bush Administration, but if similar decisions are possible today, we need to know about it. We also need to know how the families of victims of terrorism can be better informed by their government. And I'm appalled at the complete lack of information to our witnesses and others similarly affected. The fact that a matter of the highest importance to families of American military personnel is withheld from them, is disturbing, to say the least. I trust I will learn today that the information was also withheld from the Navy Department, because if the Navy or the Marine Corps knew what was transpiring, I expect that they would have not only informed the families of the Marines, but also protested Mr. Andrade's parole, with such firmness that it would not have happened.

Two other points, Mr. Chairman. First, when we review this case, I hope we will take into account the environment in El Salvador at the time. A stressful environment is not an excuse for a bad decision. Sound chains of command are designed to function despite stress. But we should note the differences between Washington, DC of 1997, and the embassy in San Salvador in the late 1980's.

Second, and most important, the sacrifice made by these Marines. I don't presume to assign meaning to another man's death, but I do know how Central America has changed since the 1980's. Then a group of countries were locked in brutal, bloody civil wars, and now there is peace. Then democracy was being squeezed between pro-Communist rebels and an authoritarian regime. Now democracy is much stronger, the rule of law is taking hold, and the former rebels are part of the democratic process. Central America today is far from perfect, but it's vastly better off than in the 1980's. And I believe America's commitment at that time is one of the reasons.

America's commitment carried the ultimate price for your brothers, or your sons, and for your comrades. And I, as an American, am extremely grateful for the sacrifice they paid, and for the freedom that they have purchased.

Chairman SHELBY. Senator Chafee.

I would note, if I could, Senator Chafee, as a lot of you might recall, was the Secretary of the Navy in the Nixon Administration and served his country also in war.

Senator CHAFEE. Thank you very much, Mr. Chairman. I want to thank you for the tenacity you've shown in pursuing this matter. And I'm glad that we're here today and taking one more step, hopefully, toward resolving some of the key issues.

What are some of the key issues? Why was Mr. Andrade allowed to be paroled into the U.S. without appropriate inter-agency coordination? I just don't understand that. And I hope that we can shed some light on that today.

Secondly, why were the families, that are represented here today, and personally present, not provided the information they sought concerning the death of their loved ones, in a timely way?

And what procedures can we do to ensure improvement in this gap that occurred? So, Mr. Chairman, I look forward to this hear-

ing and want to do anything I can to contribute to it. And thank you for holding it.

Chairman SHELBY. Senator DeWine.

Senator DEWINE. Mr. Chairman, thank you very much. First let me ask that my full statement be made a part of the record.

Chairman SHELBY. Without objection, it will be ordered.

[The statement of Senator DeWine follows:]

OPENING STATEMENT OF SENATOR MIKE DEWINE

HEARING ON THE ZONA ROSA MASSACRE JUNE 19, 1985

Thank you Mr. Chairman, I have taken a personal interest in this hearing, today, because it touches the lives of two families from Ohio. The Webers from Cincinnati, Ohio, who are present with us, and the Handworks, of Beaver Creek, who could not attend. The Webers and the Handworks lost their sons Gregory and Thomas in a terrorist attack on June 19, 1985. Armed assailants affiliated with the Urban Commando of The Central American Revolutionary Workers Party (PRTC), one of the five member parties of the Marxist group the FMLN, planned and executed their attack on four unarmed U.S. marines assigned to the U.S. Embassy in San Salvador.

I have long followed developments in Central America. I have traveled to the region many times most recently in November 1996, when I visited Nicaragua. Nicaragua was the source of direction and sustenance for the FMLN throughout the war. My visit was to meet with newly elected President Aleman. His election in Nicaragua and the three democratic Presidential elections in El Salvador are the product of America's long effort to support democratic governments in the region fighting against Marxist/Leninist insurgencies supported by Cuba and the former Soviet Union.

The price we paid for the victory was high. Thomas Handwork and Gregory Weber lost their lives in this struggle. In 1985, the outcome in El Salvador was still uncertain. We ultimately won because of the fact that thousands of Americans, like Thomas and Gregory, were willing to voluntarily go to El Salvador to help that country defeat the FMLN.

Following the June 1985 terrorist attack, Ronald Reagan ordered immediate steps to punish those responsible. The United States marshaled its resources to identify, arrest, and prosecute those responsible. Within a few months, the U.S. knew who was involved in the operation and the Salvadorans had arrested several individuals. Our persistent efforts had paid off. The intellectual authors—those who planned the attack—however, were never brought to justice.

In May 1989, there was a significant break in the case. The Salvadorans arrested Pedro Antonio Andrade, a member of the Central Committee of the PRTC who was head of the PRTC's Metropolitan Front in San Salvador (which planned and executed this attack). Over the next several months, Andrade was interrogated. He provided information that led to the seizure of the largest weapons cache in the war. He also identified many other guerrillas who were later arrested. Despite his usefulness as a source of intelligence, the officials who were dealing with him knew he could not be paroled into the U.S. because of his involvement in planning the attack. Yet, for reasons still not adequately explained, a State Department Officer actively worked around Washington objections to obtain the parole of Andrade into the U.S. Ultimately, he was brought into the U.S. where he has been living since 1990.

This hearing will permit the families to testify about their personal ordeal over the last 12 years as they struggled to learn what really happened. It is also an occasion for the Department of State, Justice, and Defense, as well as the CIA, to explain and answer questions concerning Andrade's parole. I am surprised that the Department of Defense and the Defense Attache in San Salvador were not fully involved in the parole decision. Given that the Marines were DOD employees, it is very hard to understand why DOD was not a more prominent player in these developments.

I am pleased, however, to have read an order dated March 25, 1997, by Immigration Judge Pugliese that denied Andrade's asylum request. Judge Pugliese found that a preponderance of the evidence indicates Andrade was involved in the Zona Rosa attacks and thus not eligible for Asylum.

In closing, I want to again thank Mr. and Mrs. Weber for attending as I do the other families.

Senator DEWINE. Mr. Chairman, I want to thank you, personally, for holding this hearing.

We will have the opportunity in a moment to hear from some of the families. But I suspect that their wish is the fulfillment of what we just saw Ronald Reagan say, 12 years ago, and that is that justice be done.

And this is a hearing about justice, and some of the serious questions that, Mr. Chairman you have raised in the past, and I know that we will have the opportunity to explore today, about our government's actions after this horrible tragedy.

Senator Glenn and I both have a particular interest in this. Two young men, fine young men, from the state of Ohio gave their lives in this horrible massacre, in this horrible tragedy.

At the time I was a United States Congressman. It was my honor and privilege to meet both families at the time. It was my privilege to attend Officer Handwork's funeral, Tom Handwork's actual funeral, and memorial services for both Greg Weber and Tom Handwork.

So I appreciate the fact that the Weber's are here today and the other families are here.

Again, Mr. Chairman, I thank you for holding this very important hearing.

Chairman SHELBY. Senator Glenn.

Senator GLENN. Thank you, Mr. Chairman.

I want to join the others in commending you for having this hearing today, very important hearing.

Nineteen June, 1985, the Zona Rosa terrorist attack in El Salvador was a cowardly, it was a vicious attack, unprovoked.

The 12 people who were murdered in this atrocity, six of them U.S. citizens, deserve to have the perpetrators brought to swift and certain justice. And we owe that to their memory, if nothing else.

And there certainly was room for improvement, regarding the effort to bring the murderers to justice, particularly in regard to Pedro Antonio Andrade's entry into the United States. There should have been much greater, intra and inter-agency coordination regarding this matter.

So it's important for us to know, as much as possible, as to what happened in the Zona Rosa tragedy so that we can correct it so it won't be repeated again.

Just on a personal note. I spent 23 years in the Marine Corps, and since coming to the Senate, I've made it a policy, on every trip that I go on, to visit the Marine security guards, at each one of our embassies around the world, wherever I've traveled. And I don't even know how many times I have made visits to the security guards, talked to them. I can assure you there are no higher class young men and women in our nation's service than there are from these who are, literally, selected Marines. You don't just become one of the security guards at—and they're very selected people out of the Marine Corps, especially selected for that particular duty, and there are none finer.

So, we absolutely have to find out what happened and make sure that it never happens again.

So, I join my colleagues in welcoming all of our witnesses to today's hearing. But I particularly wish to welcome the family and friends of the victims of the Zona Rosa terrorist attack.

As my colleague, Senator DeWine said, two of the Marines killed that tragic day in 1985, were Ohioans, Sergeant Gregory Weber of Cincinnati, and Staff Sergeant Thomas Handwork of Dayton. And I certainly welcome the Weber family here today. Unfortunately the Handwork family was unable to attend today's hearing.

I know that the pain of all the families has been exacerbated by the grant of parole to Pedro Antonio Andrade, and clearly the U.S. government must do a better job of informing family members about developments that so directly affect them.

Again, I welcome all of you to today's hearings and look forward to your testimony.

Thank you.

Chairman SHELBY. Thank you, Senator.

We welcome all of you to the Committee. We would like to give you this opportunity today to share your experiences with us, from the past 12 years since the death of your sons and brothers. We invite you to give us your views on how the government can do a better job of keeping family members, such as yourself, informed in situations like this.

First, I want to recognize Ms. Betty Malone, a parent of the deceased Marine, Staff Sergeant Bobby Joe Dickson, of Northport. I went through it earlier.

Second, Mr. Andy Whitt, brother-in-law of deceased Sergeant Patrick Robert Kwiatkowski.

Third, Mr. John Weber, the father of the deceased Marine, Sergeant Gregory Howard Weber.

And finally, Mr. Ed Mulvaney, a fellow Marine security guard in El Salvador at the time of the Zona Rosa thing.

And then our second panel is made up of government officials. Who wants to start off?

Ms. Malone, we welcome you to the Committee. You want to pull that mike up to you, please.

You proceed as you wish.

STATEMENT OF MS. BETTY MALONE, MOTHER OF MARINE STAFF SERGEANT BOBBY JOE DICKSON (BOBBY)—ZONA ROSA VICTIM

Ms. MALONE. I would like to thank you for the opportunity to address the Senate Select Committee on Intelligence, about my son, Marine Sergeant, Bobby Joe Dickson, and what happened after his death.

Please let me begin by telling you just a couple of things that a couple of his Marine friends said about him that meant a lot to me through the years.

They said Bobby Joe was a typical Southern gentleman, from Northport, Alabama, and proud of it. Everything he stood for testified to the fact that he was a true gentleman and a fine Marine. He made sergeant in only 17 months.

There is one thing I will always remember about Bobby Joe, his smile. Once you met Bobby Joe Dickson, you never forgot his smile.

I can't remember a time when there wasn't a smile on his face, usually from ear to ear. I never saw him frown. He just loved life.

And the former—a lieutenant colonel who Bobby Joe served under, wrote me this in his letter. "As Bobby Joe's memory becomes embroiled in the politics of our nation's foreign policy, many will forget the true contribution he made to our nation. That contribution was having the few of us the opportunity to have served with one of the proudest of the proud, the finest of the finest. Bobby Joe was a great man, and a great Marine. And it would be my best hope that my own boys could grow up to be like him."

On that night of June 19, 1985, when terrorists bullets took our son's life, and sent him home to be with our Heavenly Father, it forever changed our lives: His father Joe, his brother Tommy, and mine, as well as many other family members who loved him dearly. There is a void that will never be filled.

The next morning, on June 20, 1985, after getting my husband and son off to work, I was at home alone, and turned on the morning news, as I usually did, because I was always worried about Bobby Joe. Immediately there was the news that four Marines had been killed in San Salvador. My mind racing, I called the U.S. embassy, and asked to speak to my son. I was then told that Bobby Joe was one of those killed. Minutes later, a Marine was at our door to officially inform us of his death. I hope this doesn't happen to another family.

I was grateful to learn the U.S. government had continued to investigate Bobby Joe's and the other Marines' death, and tried to prosecute his killers in the past 12 years.

But I only learned of it in the last six months, through the efforts of Senator Shelby, and Anna Tibadeau's articles in our local paper, the Tuscaloosa News, in Alabama. And I certainly appreciate Senator Shelby's efforts in keeping me informed and his staff. I received many phone calls and letters from his office.

I certainly appreciate the five reports finally released to us, but I wish this information had been provided as it became available, and not years later, under pressure.

But there are still questions.

At first I was told Bobby Joe died instantly, but later learned this was not true. To this day, I don't know where my son died. Did he die on the way to the hospital? Or at the hospital?

I now have learned that he talked after being shot. I want to know what he said.

These questions have haunted me for 12 years. I think these are things that only, that any parent would want to know about their son's last day, last minute.

I also want to know, will Pedro Andrade be deported for his role in my son's death? I certainly think he should be.

Our boys gave their lives for this country. And this country should not protect their murderers. Our sons made the ultimate sacrifice for their country. And they deserve nothing short of justice.

Again, I thank you for being here, and letting me tell you about my son. He loved being a Marine. And he loved this country. And we who loved him, miss him very much.

Thank you.

Chairman SHELBY. Mr. Whitt.

You might want to pull that mike up close to you.

Thank you.

**STATEMENT OF ANDY WHITT, BROTHER-IN-LAW OF MARINE
SERGEANT ROBERT KWIATKOWSKI—ZONA ROSA VICTIM**

Mr. WHITT: First, we'd like to thank Senator Shelby and the Senate Select Committee on Intelligence, for allowing—for all of their efforts that have brought to light many facts surrounding the murder of Patrick Kwiatkowski and his fellow marines. The lack of information, over the past 12 years, has been very frustrating for our family. The inspector general's reports have provided many details that have been lingering questions in our minds over the years, since the Zona Rosa attack. However, the reports have also generated a new set of questions that we are hoping this committee will continue to pursue for answers.

Patrick's mother, Phyllis Hildebrandt requested that I bring to this Committee, her questions and concerns, relative to the entry into this country, of Pedro Antonio Andrade.

Her daughters, my wife Brenda, and Beth Kwiatkowski, are here today to bear witness to these proceedings and demonstrate, by their presence, their solemn resolve that some measure of justice must be brought to those involved in the terrorist attack that took their brother's life.

On June 22, 1985, we came to Washington and we heard President Reagan pledge that everything possible would be done to bring all those involved in this terrorist attack, to justice.

The OIG reports reveal that a great effort was undertaken by several branches of our government, along with the Salvadorian government to identify and bring to justice, those involved in the attack. The reports also reveal that Andrade was granted a parole into the United States, in the public interest.

Mrs. Hildebrandt asks the following: how is it possible that our government could allow, and finance entry into our country, a man that clearly had a significant role in the murder of her son? What were the reasons that Andrade should be given this privilege? Who is responsible for making this decision to parole him here? Who guaranteed that Andrade would not be prosecuted, by timing his arrival in the United States just days after the five-year statute of limitations had run? Why did people from the embassy that Patrick volunteered to defend, assist Andrade entry into our country? Why should Andrade be allowed to enjoy a life of freedom in our country, with his family, when she can no longer enjoy a life with her son?

Over the years, since Patrick's murder, our family has received very limited information concerning the investigation of those responsible. Often the first word of a development in the case was from the news media, who had called looking for a response from the family.

From the very beginning, it seemed like the family was the last to know. Something must be done to improve the information flow to the families of these Marines.

Patrick's father, Bernard Kwiatkowski, passed away last summer, and to his grave, he took a deep-seated bitterness. This start-

ed with Patrick's murder, but was fueled on by the way he was treated by the press, and the lack of information provided by the government.

We all feel that the knowledge of Andrade's parole into the United States would have killed him, had he not already passed on. Mrs. Hildebrandt, as well as her daughters here today, feel that Patrick's father died of a broken heart. In this country we are raised with some basic values of truth and justice. The issue surrounding Andrade's parole into our country, shakes at the very core, these basic values.

With the information available to us at this time, this whole affair is clearly wrong and goes against these values we live by.

We understand that there is currently real legal grounds to prosecute Andrade directly for the murders. But all those involved in his avoidance of justice should be held accountable.

Finally, what is this Committee's objective, after today's proceedings? We ask that you keep us informed in a timely manner of any new developments, in current or future investigations that have anything to do with Zona Rosa massacre.

Thank you.

Chairman SHELBY. Thank you, Mr. Whitt.

Now we'll hear from Mr. John Weber, the father of the deceased Marine, Sergeant Gregory Howard Weber of Cincinnati Ohio.

STATEMENT OF JOHN WEBER, FATHER OF MARINE SERGEANT GREGORY HOWARD WEBER—ZONA ROSA VICTIM

Mr. WEBER. I'd like to thank the Senate Committee here for their efforts to straighten out a wrong.

During the memorial service, as we've seen this morning, held in Washington, D.C., President Reagan promised the American people that the perpetrators of the attack that killed the four Marines, would be caught and punished.

I remember thinking at the time, that in the chaos of a civil war, that this would be highly unlikely that it—if not impossible.

I believe it was sometime in 1986 that we received one letter, stating that one terrorist had been arrested and that one or two others were believed to have been killed in action. That was the only information that we ever received. No further communication of any kind was ever received from any government agency.

The only information that we received was from the news media. And if I could cite just a couple of examples. We read in the paper that amnesty was to be granted to these killers.

We did not know, at the time, that there were more than one of these killers that had been arrested. We did not know what penalty or sentence any of these killers received.

Then we read, some time after that, in the paper, again, amnesty was not being granted to them. At another point in time, we received a call from a Seattle, Washington reporter, who was writing a story about a supposed U.S. military retaliatory attack against the rebels.

He wanted to know what our opinion was. He wanted to know what the government had told us about it.

And most recently, we received a call from a Cincinnati reporter, telling us that one of the planners of this attack that killed our

son, had been paroled into the United States, that tens of thousands of dollars had been spent to have him and his family move to the United States for his protection. Neither reporter who called us, with this information, seeking our opinion, neither reporter would believe that no one from the government called to keep us informed.

The one reporter used the term, that's incredulous, they don't do things like that, they keep you informed.

We did not know what to believe. All we had to rely on were rumors. We were totally stunned to find out that the story that the Cincinnati reporter told us was true. This terrorist was living in the United States. My wife and I were deeply hurt. I personally felt betrayed by the country that I loved so very much. By no stretch of the imagination can this be considered justice.

And, as I've heard so many people say, whose family had someone killed, someone slain, I'm not looking for revenge, I'm looking for justice. And believe me, that's all we're looking for.

When a friend of mine once told me, who was having trouble, he said, John, I don't want your sympathy, what I would like is your empathy. The person, or persons, responsible for this terrorist being paroled to the United States is completely devoid of the ability to care for, or have empathy with the families of these slain Marines.

Through the actions of this Senate Committee, we were recently given reports from the Inspectors General of the Departments of State, Justice, Defense, and the Central Intelligence Agency, regarding this terrorist attack upon our Marines. I now feel that we have an understanding of the events as they transpired. For this, my wife and I thank you very much. It took a long time in coming. We thank you for inviting us here, and allowing us to express our concern.

Thank you.

Chairman SHELBY. Finally, we'll have Mr. Ed Mulvaney.

He was a fellow Marine security guard member in El Salvador at the time of the Zona Rosa terrorist attack.

Mr. Mulvaney.

STATEMENT OF ED J. MULVANEY, JR., FORMER MARINE SECURITY GUARD, U.S. EMBASSY, SAN SALVADOR, EL SALVADOR

Mr. MULVANEY. Thank you, Senator, It's an honor to be here today.

The first thing I'd like to say is that the four Marines slain at the Zona Rosa on June 19, 1985, were some of the finest Marines I ever had the opportunity to work with, and their deaths were a devastating blow to the entire embassy community.

We were well aware of the seriousness of the situation in El Salvador at that time. We lived in a country that was something like the wild West; people on the streets often carried handguns. Sometimes at night, we could hear machine gun fire in the distant hills. Everywhere we went, we rode in a bullet-proof vehicle, with an armed body guard. We had weekly meetings at the Marine House, where we would discuss security procedures and potential threats. So we fully understood the risk of living in such a hostile environment, and we did not take the situation lightly.

The Zona Rosa was the only place we could go for entertainment that was somewhat secure. It wasn't some sleazy, back-alley-bar-type area; it consisted of several cafes where students, business people, and occasionally embassy personnel, would meet at night. Sometimes the El Salvadoran military would walk through, in a show of force, and check ID cards. And the night of the shootings, when the terrorists arrived wearing military fatigues, the Marines probably thought they were friendly forces.

The terrorists may have been trying to make a political statement that night, but the truth of the matter is, not only did they kill four un-armed, off-duty U.S. Marines, but eight innocent civilians were slaughtered as well, including two American businessmen. Several others were wounded, an act so gruesome the papers the next day said, that the streets of the Zona Rosa flowed red with blood.

That night the Marine Corps lost four good men. American lost four good citizens; but most importantly, their parents lost four good sons. Those Marines knew the dangers involved in the service of their country when they enlisted; but it would have been inconceivable to them to think that one day their country would grant refuge to anyone involved in their murders.

I thank God for the opportunity to live in America. One of the great things about our country is we open our doors to the rest of the world, and say, "Come here, pursue happiness in the land of liberty." But we must use wisdom in determining who we open those doors to, and letting in cowardly terrorists is anything but wise.

We were an all-volunteer force at that time; there was no draft. Since there was no war, embassy duty for Marines was something of a front line of defense, because a lot of the terrorist activities during the '80s occurred at embassies.

The Marines killed at the Zona Rosa loved their country, and wanted to serve it, even in a dangerous environment like El Salvador. Had they lived, whether they'd have stayed in the Marine Corps, gone back to school, or gone to work for some U.S. company, they'd have been valuable leaders to any organization, and that's the saddest part of this tragedy: that four fine Americans, with such potential, were killed in this terrible way.

As a Christian, I believe in forgiveness. But I also believe in justice, and justice has not been served, as long as anyone associated with their deaths is permitted to live here.

Gentlemen, you can't bring those sons back to their parents today, but please don't make a mockery of their deaths, by allowing those responsible for their murders to live free in this country, and pursue the American dream, when those four young Marines will never again have that opportunity.

Thank you.

Chairman SHELBY. Senator Kerrey? Any statements or questions?

Vice Chairman KERREY. No statement at this point, Mr. Chairman.

Chairman SHELBY. Senator Chafee.

Senator DeWine.

Senator DEWINE. No, Mr. Chairman.

I just thank the witnesses for coming in. We appreciate your attendance here.

Chairman SHELBY. I, too, want to join with my fellow members of the Intelligence Committee to thank you. This is a tough day. It's tough for you to come up here, but I think it's important, and I appreciate all of your statements. All of you have something to say, and I believe America's listening.

Mr. Whitt, you raised a lot of questions, and I think they were appropriate, and we're going to try to find the answers to them, and we should. We owe that to your sons.

Thank you.

Mr. WHITT. Thank you.

Chairman SHELBY. You all can go, or you can stay here in the hearing room, whatever you want to do.

Our next panel is made up of government officials. We have Ambassador William Walker, the U.S. Ambassador to El Salvador, from August of '88, to March of '92, who is currently on assignment at the National Defense University at Fort McNair, Washington, and who will testify as a factual witness, based on his past service in El Salvador.

Representing the State Department we have Mr. John Hamilton, Deputy Assistant Secretary, Bureau for Inter-American Affairs.

And representing the Central Intelligence Agency, we have Mr. Michael O'Neil, the CIA's General Counsel.

Representing the Justice Department we have Mr. James S. Reynolds, Chief of the Terrorism and Violent Crime Section of the Criminal Division.

Representing the Federal Bureau of Investigation we have, for the National Security Division, Dale Watson, Assistant Director for National Security.

And representing the Immigration and Naturalization Service, we have Mrs. Phyllis Coven, Director of the Office of International Affairs.

If all of you would come up to the table and take your seats.

We welcome you to the Committee.

Your written statements will be made part of the record in their entirety, and we will give each one of you five minutes to sum up. If you need more time, just tell us.

Ambassador Walker, you may be first.

[The statement of Mr. Walker follows:]

STATEMENT OF WILLIAM WALKER, FORMER AMBASSADOR TO EL SALVADOR

Mr. WALKER. Thank you. I would like to offer an oral summary of my knowledge of the Andrade matter.

My name is William Graham Walker; I'm a career Foreign Service Officer with over 35 years at the State Department. During my career, I've had assignments throughout Latin America, and from mid-1988 until March of 1992, I was the American ambassador to El Salvador. I was not involved in El Salvador when the Marines were assassinated in 1985; I was in La Paz, Bolivia, at the time. But I was later the Deputy Assistant Secretary of State responsible for Central America in Washington, and I was thus acutely aware of the seriousness with which the embassy, the Department of

State, and the U.S. government as a whole were pursuing justice in this horrendous terrorist crime.

I went to El Salvador with many missions and objectives, two of which were of the highest priority. The first and foremost, I think, was to try and end the civil war there, but a second priority, no less important, was to pursue justice in a number of high-visibility criminal cases: the assassination of Archbishop Romero, the 1980 rape and murder of four American nuns, the 1981 murder of two American labor advisors, the shooting of a member of the embassy Military Assistance Group, and the FMLN-PRTC's murderous Zona Rosa attack.

Each of these was in one or another phase of the Salvadorian judicial process, investigation, prosecution, trial, or incarceration, during my ambassadorial tenure. None were closed chapters. Given the shaky state of Salvadorian justice, each of these needed constant attention, for justice to be pursued, to be achieved.

I arrived in El Salvador to find no legal officer in the embassy, a critical position which the Department of Justice had not encumbered in over a year. After months of trying, I struck gold within the Foreign Service ranks; a young officer I had worked with previously, in tough assignments, a fellow named Richard Chidester, a lawyer and a fierce advocate of the rule of law, asked for the job. I was delighted to accept him, and I have never regretted that decision.

During two years, oblivious to dangers from left and right extremists that he was pursuing, Rick did an outstanding job fighting to put the bad guys behind bars, and keeping them there.

On Zona Rosa, the United States went to extraordinary lengths to convince the Salvadorian government that the Marines, as embassy staff, were internationally-protected persons, so that their killers would not benefit from any amnesty proclamation. I took that matter repeatedly to both Presidents Duarte and Christiani, and to the President and other members of the Supreme Court. It took five years, but we prevailed.

Chidester was the driving force behind embassy efforts to bring the three Zona Rosa shooters to trial and conviction. This was not an easy task. The Salvadorian authorities were timorous, at best, when it came to prosecuting, as opposed to indefinitely detaining, FMLN fighters. Chidester accomplished this with dedication and skill.

During my tenure, additional events added to our list of "must-solve" cases. A Salvadorian Army unit was involved in the San Sebastian peasant massacre. During the November 1989 FMLN final offensive, two American women were captured, involved, the government claimed, in subversive military activities. And finally, there were assassinations, too many to count. And then, during that 1989 offensive, six Jesuit priests, their housekeeper, and her daughter, were brutally executed.

From the vantage point of eight years later, here in Washington, it is impossible to convey the effort that went into resolving the Jesuit murder case, and prodding the subsequent judicial process to produce results, i.e., justice. That consumed our embassy. It is equally difficult to convey the environment in which the Andrade

matter evolved. For the chaotic environment was the result of the FMLN's final offensive, and the deluge of events that followed.

The attack itself was a surprise, and extremely bloody. Two thousand five hundred armed guerrillas stormed San Salvador, and stayed in the city to fight, day after day. The threat to American citizens, of whom there were many in the city, was extreme. Events tumbled on top of each other. The Jesuits were murdered. The Sheraton Hotel was seized by the guerrillas with seven dozen American civilian and military personnel trapped inside. The danger level was such that I ordered the evacuation of 252 American citizens.

After the first outburst of FMLN gunfire, which killed an American school teacher the night the offense began, not a single American was hurt in the weeks of battle that followed. I am extremely proud of my embassy's performance during that offensive.

Let me come now to Pedro Andrade. The FMLN attack, and its aftermath, produced the tensions and confusion within which the embassy made decisions relative to Pedro Andrade, and I certainly agree with Senator Kerrey's remark that tension does not excuse bad decisions, and bad judgments, but I do think this was a factor. We were extremely, extremely busy. Andrade first came to my attention when my station chief asked to see me. I have no memory of the date. He confided that a senior member of the PRTC had been captured. Through its liaison relationships, the station had been offered access to Mr. Andrade.

My station chief stated that if such a PRTC leader could be turned, he would be an invaluable source of information. He had, however, a problem. He could not use a station case officer to interview Andrade. That might risk his officer to exposure, should Andrade ever appear in a court of law, either in the United States, or in El Salvador. The station chief asked if he could approach Chidester, my legal officer, as a front, in station dealings with Andrade. I agreed. Over the following weeks, Chidester kept me generally informed, for example, that Andrade had been polygraphed to determine his level of involvement in Zona Rosa. The results, I was told, indicated a marginal role. Rick also told me that Andrade was providing, as he was promised, valuable intelligence information to the station.

At some point, my station chief approached me a second time. The station wanted Andrade in the United States. There, he could be fully debriefed, and possibly displayed as a high-ranking defector. The Salvadoran authorities, were either unable, or unwilling, to prosecute, and were therefore amenable to our having him. The station chief mentioned another problem. His headquarters was unwilling to use its authority to obtain Andrade's parole. He asked if Andrade could be processed as a normal parole case. I told him to speak to the consular section.

Chidester continued to front for the station. He was explicit in warning Andrade, that if it was ever revealed that his involvement in Zona Rosa was other than what he claimed, the U.S. would not hesitate to prosecute him for murder.

The embassy consular section had action on the visa. Those agencies and sections involved in security matters met often, to discuss the Andrade case. The station, with its full knowledge of the condi-

tions and resource implications of Andrade's release, was the most knowledgeable participant in those discussions. This was the station's baby.

Once Washington approved issuance, preparations were made for Andrade's travel. I was informed that the station wanted to make a film: Andrade on-camera, answering the questions about his FMLN involvement. The film was finished just a day or two before his departure—all expense paid by the station.

Processing the visa request occurred in the offensive's aftermath. These were extremely busy days, as I've said, with Congressional, NGO, and other visitors demanding justice in the Jesuit case. With the government-FMLN peace talks finally getting serious for the first time, and with a most of other critical tasks, it does not surprise me that not every meeting, every participant is recorded on paper. Those were dangerous, hectic times in El Salvador. But not in the Department.

Full inter-agency coordination is supposed to occur in Washington. There are procedures in place—there were procedures in place. Those were either not followed by the designated State action offices, or they were, but without generating a paper trail. This is where, I believe, inadequate coordination and communication occurred.

Now on what basis, it's been asked here several times this morning, on what basis was parole recommended? At the time the embassy recommended parole, the best information we had was that Andrade was cooperating as an FMLN defector, and providing valuable intelligence information, which might, in the long run, prevent further violence and death in El Salvador. Given that cooperation, Andrade was a marked man if he remained in El Salvador.

Andrade had confirmed his claim of marginal participation—that is what we believed at the time—in the Zona Rosa murders, on a polygraph. In January, 1990, an FBI polygraph operator, who was in El Salvador on other business, told the embassy that the Andrade tests were administered in accordance with FBI standards and were, in his opinion, valid. Andrade was also on notice, that if he had lied about his Zona Rosa participation, he would be subject to prosecution in the United States.

There was no possibility of prosecution in El Salvador. The government had insufficient evidence, and more importantly, lacked the political will. Thus, if Andrade was a Zona Rosa principal, the only chance that he would be prosecuted lay in a U.S. court. Andrade would be putting himself at legal risk in accepting U.S. residence.

Now, who was responsible for Andrade's entry? I think it is not difficult to determine what brought Andrade to the United States. You only have to answer the following questions: which embassy component had been informed by the Salvadoran security forces of his capture, and offered access to him? To which would the Salvadoran authorities release an FMLN prisoner? Which agency provided the funds for the Andrade family's relocation in the United States? Which paid for his airplane, ticket, purchased within days of his departure? Which paid the costs of the film, which was shot up to the last days of his stay in El Salvador?

I would argue that the same answer applies to each and every one of these questions. Only one embassy component had the motive, the means, the relationship with the Salvadoran security services, to obtain Andrade's cooperation and release. If that agency's headquarters told its field to have, quote, unquote, "Nothing further to do with Andrade," it is difficult to understand why he was filmed, why he was paid, or his family was, and ticketed, up to the moment of his departure.

Conclusions. Let me summarize where I come out on this. I agree totally with the IG conclusion, that a failure to communicate and coordinate among agencies in Washington occurred. That failure took place here.

I emphatically disagree with the State Department IG's statements critical of Richard Chidester's performance. Rick was forceful and effective as a principal player, in imposing justice on three of those arrested for participation in Zona Rosa. The agency responsible for Andrade's presence in the United States, I believe, could be more forthright in describing its involvement with Andrade.

Further, if DOJ, the Department of Justice, has evidence, as it has claimed, that Andrade was a key participant in Zona Rosa, it should arrest and prosecute him. He was promised nothing less. He was certainly not promised immunity. I leave to others to determine from the comfort and distance of Washington, seven years later, whether I and my staff made all the right calls. I insist, however, that those calls were made on the basis of information at the time, in the middle of a difficult situation, and with our attention focused on bringing an end to the over-all violence, the war itself.

Unique among my colleagues in front of you today, I believe, I was physically present in El Salvador during those bloody days. I and all who served with me were constantly under threat, occasionally under fire, and certainly under mandate to bring to justice in such as the Zona Rosa murders. I believe, therefore, I am more sensitive than most—with the obvious exception of the families and loved ones you have just listened to—to what the tragic loss of those four young servicemen meant. I also have far less cause, none actually, to want to shield, protect anyone involved in their deaths. Far from it.

Let me explain. As the at-hand representative, of the Great Satan, I as the American ambassador, occupied a unique position, at the top of the FM's target list. From the day of my arrival in El Salvador, Radio Venceremos, the voice of the FMLN, continuously heaped invective and threat on me, by name. For three-and-a-half years, I never left the house, the residence, without heavily-armed body guards, and in armored cars. The same was true for my wife, and our two pre-teen sons. My family spent many a night when the bullets were flying, huddled in an airless, six-by-eight foot safe haven, in the middle of the residence. I say this not to dramatize the dangers we faced, but to indicate why I, of all people, would not want to see those responsible for the killing of our Marines, young men who provided protection for me, my family, the embassy, to escape justice. Neither I, nor Chidester, nor anyone on my staff, felt anything but anger towards those who resorted to such mindless violence.

Let me address myself to the families here today. I want to assure them I'm in total sympathy with their quest, their demand for justice. I want to assure them the embassy neither forgot nor forgave those responsible for taking the lives of their sons, their brothers—and pushed with everything we had to secure prosecution, conviction, and punishment of those involved. Rick Chidester, I believe, should be on the families' hero list, for his efforts, his successes, in putting three of the assassins behind bars. If the families judge that I made poor calls, or otherwise caused them further pain, I sincerely apologize.

Thank you, Mr. Chairman.

Chairman SHELBY. Representative of the State Department, we have Mr. John Hamilton, the Deputy Assistant Secretary of the Bureau of Inter-American Affairs.

Mr. Hamilton.

STATEMENT OF JOHN R. HAMILTON, DEPUTY ASSISTANT SECRETARY, BUREAU FOR INTER-AMERICAN AFFAIRS, DEPARTMENT OF STATE

Mr. HAMILTON. Thank you, Mr. Chairman.

I, too, welcome this opportunity to assist the Committee in its efforts to have a full airing of this matter.

Mr. Chairman, the State Department has cooperated with this Committee's efforts to reconstruct what happened, right from the outset. I think you'll recall I appeared before you in closed session in October, 1995, and in fact directed the Committee's attention—and, in fact, among all the questions you had before you at that time, directed you to the question of the Andrade parole as the key issue.

Chairman SHELBY. You did.

Mr. HAMILTON. We subsequently looked into this further ourselves, sent the Committee a report, and our Inspector General conducted a comprehensive review at your request. The chief investigator from the IG's office is here today to answer any questions today on the facts of the investigation.

Mr. Chairman, we all remember the shock of the Zona Rosa massacre, and as several people here today have noted, President Reagan promised we'd spare no efforts to see the killers brought to justice. I think it is clear that that became a top priority over the next half-decade, and ultimately we did see three people convicted, and serve a total of 22 years in prison. Although a fourth was acquitted, he too spent 5 years in jail, pending his trial.

The efforts by the embassy in El Salvador and by the Department of State were dogged and unrelenting. To cite two in particular, it was the Department's offer of a \$100,000 reward for information leading to an arrest that produced the first significant breakthrough in this case. That led to the capture of one of the gunmen, and a principal accomplice. And then, and as one of the family members noted, it became a very real danger, in 1987, that an amnesty that El Salvador was adopting as part of its over-all plan to bring the war to an end, posed the very real danger that the killers were going to be granted amnesty. And it was the very forceful diplomacy by our embassy, and indeed by Ambassador Walker, backed by careful legal argumentation worked out by our legal

counsel, and by the Department of Justice, that turned that effort back. And I think but for our action, the killers would have, at that point, walked free.

Had everything been done properly, though, I don't think we'd be sitting here today, 12 years later, discussing all of this. So let me turn to the Andrade parole. Andrade had been identified in——

Chairman SHELBY. Could you move your mike up just a little bit, toward you.

Mr. HAMILTON. Toward me.

Andrade had been identified in intelligence as a possible intellectual author, but when he was arrested, it developed that a prosecutable case, either in El Salvador or in the United States, proved next to impossible to develop. There were, as your own very thorough opening statement noted, interagency discussions in Washington, as to how Andrade should be handled. There was the agreement that, in exchange for information that he would provide, that he could receive the support that you indicated, the relocation of his wife and children

But there was also agreement, Mr. Chairman, that there would be no further consideration of his parole, without recourse to further interagency consideration.

Chairman SHELBY. What was the date of this?

Mr. HAMILTON. October 5, I believe, sir.

Chairman SHELBY. Okay.

Mr. HAMILTON. Now the embassy in San Salvador, as Ambassador Walker related, became convinced that Andrade in fact was not directly or deeply involved, and after Salvador authorities determined that they could not prosecute him successfully, and a Salvadoran judge ordered his release, they recommended his parole.

Now our Inspector General's comprehensive review covers the next part in great detail but, in summary, it is the case the Department forwarded the request for his parole, with its concurrence, to the Immigration and Naturalization Service, without bringing it to the attention of the other individuals and agencies that had participated.

Chairman SHELBY. Repeat that again.

Mr. HAMILTON. Yes.

Chairman SHELBY. This is very crucial.

Mr. HAMILTON. The Department of State did forward to the Immigration and Naturalization Service, without further recourse to the other agencies that had been involved in the prior discussions, with its concurrence, the parole request, and that parole request was then approved.

Senator CHAFEE. Mr. Hamilton——

Chairman SHELBY. And in addition——Senator Chafee, go ahead.

Senator CHAFEE. Mr. Hamilton, what other agencies would they have been? CIA, for example?

Mr. HAMILTON. It would have been the CIA, and the Department of Justice, and the Department of Justice prosecutor, sir.

You asked us to address, in your letter, the lessons learned and the remedial steps that have been taken. Now, as parole authority resides with the Attorney General, it has fallen to the Department of Justice and the Immigration and Naturalization Service to take the lead, but we've been cooperating with them in developing proce-

dures that we believe would prevent a reoccurrence of this. I believe Ms. Coven in her statement, and Mr. Reynolds, described the new procedures in detail, but, in essence, they require, at several steps of the process, for a much more formal vetting and certification of merits of the parole request.

I think it's also worth noting that changes to the way paroles are handled were instituted as long ago as 1993. At the time of the Andrade parole request in 1990, there was no operational distinction drawn between those requests being undertaken for purely humanitarian reasons, and those, on the other hand, that were being undertaken for reasons of the public interest. The commingling of all of these requests, I think, was one of the factors that led to this not receiving the scrutiny that it should have had in Washington. And so, by drawing that distinction, I think, we've flagged, right from the outset, for intense scrutiny, those politically-sensitive and potentially problematic parole requests that come in now. There are about five or ten of these a year, Mr. Chairman, that originate from the Department of State, out of the 400 or 500, I think, that are considered by our—

Chairman SHELBY. So you're saying that you learned something here, is that the bottom line?

Mr. HAMILTON. I think we have, sir. In fact, I'm confident that we have.

It's also the case that there have been changes—in particular, a significant upgrade in the capability of what we call the “consular look-out and support system.” This is a computer data base containing information from all U.S. Government sources pertinent to every such visa or parole request. We had a system in 1990, but the information put in it was largely from State Department sources, and we have an all-source data base now, and I think that's also a particularly helpful corrective measure that has been taken continuously over the last several years, to improve.

Mr. Chairman, on behalf of the Department of State, I would not want to conclude my oral remarks, without stating again, to the family members here present, how much we appreciate their loss; how much we are aware that the pain and suffering they had already endured was exacerbated by the knowledge of the grant of parole to Andrade; we apologize for that here and now, and deeply regret that.

Chairman SHELBY. Mr. Hamilton, do you believe they should have known what was transpiring all along? Do you, Mr. Ambassador?

Mr. WALKER. I totally agree.

Chairman SHELBY. Okay, good.

Mr. HAMILTON. In fact, the next thing I intended to say, Mr. Chairman, is that the second thing we deeply regret was losing contact with the families over the years. They should not have had to hear about this either through the media, or even through the U.S. Congress. We regret that, and we resolve to do better. We should have done better.

Chairman SHELBY. Thank you.

Mr. HAMILTON. Thank you, Mr. Chairman.

Chairman SHELBY. Representing the Central Intelligence Agency here today, we have Mr. Michael O'Neil, the CIA's General Counsel.

Mr. O'Neil.

**STATEMENT OF MICHAEL O'NEIL, GENERAL COUNSEL,
CENTRAL INTELLIGENCE AGENCY**

Mr. O'NEIL. Thank you, Mr. Chairman.

I'm here today to answer your request for a review of the CIA's response to the Zona Rosa terrorist attack. One of the fundamental responsibilities of any government is to defend its own citizens, and the CIA fully supports your efforts to examine how our government responded to the cold-blooded assassination of four U.S. Marines and two U.S. citizens, as well as six Salvadoran civilians.

I want to address two topics. First, I'd like to discuss CIA's actions in pursuing the perpetrators in the attack, and its role in the resettlement of one of the planners of the attack, Pedro Andrade.

Second, Mr. Chairman, I am fully aware that you are concerned about the decision to parole Mr. Andrade into the United States, and about the process which led to that decision. You've specifically asked us about lessons learned as a result of that attack. I would therefore like to review the changes we have implemented in the CIA, in dealing with issues that involve particularly important operational, ethical, or policy concerns.

Let me begin, then, with CIA response to the Zona Rosa attack, drawing upon the CIA Inspector General's detailed report, which was completed in September, 1996. First and foremost, Mr. Chairman, CIA personnel made extensive efforts to assist in identifying and bringing to justice the responsible individuals. The attack occurred in San Salvador at about 9:00 p.m. local time, on June 19, 1985.

Three hours later, CIA personnel sent the first intelligence report to Washington on what had happened. CIA officers in San Salvador went to work immediately to provide intelligence support for Salvadoran efforts to bring the killers to justice. Agency personnel in San Salvador were friends of the Marines and worked hard to find the killers. A CIA officer was near the cafe when the shooting took place and raced to the scene after hearing gunfire. Two of the Marines, his friends from the embassy, died in his arms.

The following day in Washington, DC, CIA officers attended an inter-agency meeting to plan a course of action in response to the attack. CIA representatives volunteered to step up intelligence support to the Salvadoran government, and to work with the Salvadoran authorities in collecting information on guerrilla groups, particularly against the Central American Revolutionary Workers Party, the PRTC, the guerrilla group that claimed responsibility for the attack.

The State Department asked the CIA to be the focal point for all U.S. support to the government of El Salvador on this case. CIA personnel in San Salvador were already at work the day following the attack. Pursuit of the killers was their top priority, and all other tasks took second place.

CIA officers worked with the Salvadorans to organize a task force to capture the killers, and brought about needed cooperation

among the Salvadoran police and intelligence units. The CIA also assisted the Salvadorans by providing intelligence that identified the location of PRTC base camps in the countryside. Our efforts bore some results. Our intelligence support played a key role in bringing the perpetrators of the Zona Rosa attack to justice. About 12 PRTC guerrillas were involved in the attack. Ultimately five of them were arrested and stood trial in El Salvador. Two others were killed in action sometime after the attack, while one had died as a result of wounds received during the attack. A few individuals were never identified in true name, and escaped capture.

At the same time, CIA officials in San Salvador worked hard, in their words, to "make life difficult" for the PRTC. Using information provided by the CIA, the Salvadoran military conducted attacks on PRTC camps in the countryside, forcing the PRTC to move out of its main base camps, and causing the PRTC commando group responsible for the Zona Rosa attack to be disbanded. Guerrilla leaders also reportedly made an affirmative decision not to kill any more Americans.

Andrade was of interest soon after the attack, as he had been identified as the leader of the PRTC commando group that claimed responsibility for the attack. He was arrested in El Salvador in 1989, and proved to be one of the most significant sources of intelligence on the PRTC and the Zona Rosa attack. Over the course of a year he provided a great deal of information to the Salvadoran National Police. Although CIA personnel never spoke to Andrade directly, because of Justice Department concerns that such contact might interfere with the possibility of a U.S. prosecution against him, the information he provided was reported through CIA channels.

Andrade provided important information on PRTC organization, plans, and logistics. He also admitted to being one of the four men involved in the planning of the Zona Rosa operation, and was given the task of arranging for a hideout and for medical care to be available after the attack. He went on to say, however, that he never actually made those arrangements.

From the time of his arrest, Andrade dealt with his Salvadoran captors on a quid-pro-quo basis, and refused to cooperate with them unless he was offered something in return. He said he would divulge everything he knew about the guerrillas in exchange for clemency, financial assistance for himself and his family, and a cash settlement of \$10,000. The Salvadorans finally agreed to some of Andrade's conditions, and promised that his family would receive financial support during his detention. As part of its support to the Salvadoran government, the CIA, with the concurrence of the Department of Justice and the State Department, furnished money to the Salvadorans to defray some of the costs of Andrade's detention, and to resettle his wife and children in the United States.

In September, 1989, the CIA Chief of Station in San Salvador met with embassy officials to discuss the Andrade case. Andrade had again asked the Salvadorans to send him the United States, and CIA personnel wanted to know what steps would be necessary to do that. Embassy officials said that it would be up to the U.S. Attorney General to decide. The Consul General at the embassy then asked the CIA to test the waters in Washington, and see what

the reaction would be if the State Department proposed a parole for Andrade and his family.

The Chief of Station reported to CIA headquarters that Andrade agreed to cooperate in providing information, but would not do so until he was made a promise of parole into the United States, and immunity from prosecution. The chief of station also reported that the CIA and the embassy personnel in El Salvador agreed with this arrangement. CIA Headquarters responded immediately that officials in Washington did not know anything about an agreement for a parole, or immunity. In fact, the Department of Justice lawyers were not willing to grant immunity, or parole to Andrade. The Chief of Station was instructed to seek guidance from Headquarters before taking any action in the Andrade case.

In October, 1989, officers of the State Department, Department of Justice, and CIA met in Washington to discuss options concerning Andrade. No agency representative at the meeting showed any interest in bringing Andrade into the United States.

Senator CHAFFEE. Excuse me, who was involved with this meeting you're just describing now?

Mr. O'NEIL. The State Department, the CIA, and the Department of Justice.

Both State Department and the Department of Justice indicated that they would want to be assured that Andrade was not involved in the Zona Rosa attack before they would consider bringing him into the United States. In December, 1989, lawyers in the CIA and the Department of Justice reviewed all CIA material pertaining to Andrade. This included statements by Salvadorans who were either involved in the attack, or who were aware of Andrade's guerrilla activities, as well as Andrade's own statements. Lawyers for both agencies concluded that Andrade was culpable, to some degree, in the Zona Rosa attack. CIA lawyers concluded that the material, points to Andrade as masterminding the Zona Rosa slaying.

No record has been found of further communications between CIA Headquarters and CIA personnel in El Salvador regarding Andrade until June, 1990. In the meantime, on March 28, 1990, the embassy transmitted a request to the State Department for a parole for Andrade. Copies of the cable were sent to CIA Headquarters' office responsible for Central American Affairs. That office routinely received cables, including those from the State Department, that pertained in any way to Central America. This amounted to hundreds of cables per day, and the cable regarding the Andrade parole proposal was not identified as requiring any special attention.

Two days later a copy of the cable was also provided to the Chief of Station in El Salvador. Andrade's parole was approved by officials of the State Department and the Immigration and Naturalization Service on April 25, 1990, and in late June, 1990, the CIA provided the Salvadorans with a \$300 plane ticket for Andrade's travel to the United States.

The CIA Inspector General's investigation found no documentary evidence indicating any CIA participation in the decision to parole Andrade.

After the parole, CIA Headquarters queried the State Department about the parole. The response, which apparently went only

to the State Department, came in the form of a memorandum bearing the name of the State Department legal officer from the U.S. embassy in San Salvador. The memorandum said the embassy's consular section initiated the request for the Andrade parole, but made no mention of the involvement of the station or other CIA personnel. At about the same time, CIA Headquarters sent a cable to the station, asking about its role. The station responded the same day, July 16, 1990, saying, "Station played no role in influencing State's decision to authorize Andrade's humanitarian parole."

Mr. Chairman, we recognize this entire matter to be a sensitive issue, one charged with important ethical and policy implications. Over the past few years, we have sought to improve our handling of similar issues, such as human rights and counterintelligence matters which impinge upon us more directly. We've done the following.

Within the Directorate of Operations, we have provided our officers detailed guidance about a range of sensitive issues, laying out their reporting responsibilities in the areas of human rights reporting and crimes reporting. We have created a more fulsome internal reporting and review process, to ensure, first, that our officers identify important events and issues, and second, that this information is communicated in a timely way to CIA Headquarters.

We have a more effective Congressional notification process. Senior CIA managers meet a regular basis to review important developments, and identify those issues requiring notification.

We have continued to seek improved coordination and communication with other intelligence agencies, with law enforcement agencies, with the Department of State, and with the National Security Council.

I would note, just as one example, that the Acting Director of Central Intelligence meets with the President's National Security Advisor and the Secretary of State on a regular basis to discuss key issues. As the Agency's chief legal officer, I'm in regular contact with my counterparts in the Department of Justice, the FBI, the State Department, and the NSC.

Mr. Chairman, the CIA, through its Inspector General, has determined that it was not directly involved in the granting of the Andrade parole. I cannot speculate about what difference these measures would have made, had they been in place at that time. What I can tell you is that we now have a better capability to identify and address sensitive problems, to ensure that important issues don't fall through the cracks, to coordinate on these issues with other agencies, and to keep the Congress informed.

Mr. Chairman, I would like to end my remarks by underscoring the fact, that after the murders, the CIA station in San Salvador made the Zona Rosa case its highest priority, pulled together and gave direction to the bi-national task force that pursued the perpetrators of the attack, and made a major contribution to bringing some of those responsible to justice.

As the Inspector General's report notes, the officers who participated in this effort deserve credit. The unfortunate set of circumstances and the disagreement over the basic facts which led to

the Andrade parole should not obscure the genuine effort of these Americans, who also love and serve their country.

Thank you.

Chairman SHELBY. Representing the Justice Department, we have Mr. James Reynolds, Chief of the Terrorism and Violent Crime Section of the Criminal Division.

Mr. Reynolds, welcome to the committee. If you'll pull the mike a little closer to you, I believe we can hear you.

STATEMENT OF JAMES S. REYNOLDS, CHIEF, TERRORISM AND VIOLENT CRIMES SECTION, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

Mr. REYNOLDS. Okay, thank you, Mr. Chairman.

I welcome the opportunity to respond to concerns that have arisen in this matter.

In 1985, when the tragic murders occurred at Zona Rosa, the Department's criminal enforcement program relating to extraterritorial terrorism events was less developed than it is today. Firstly, our arsenal of criminal violations that we could apply extraterritorially, had not developed to the extent it is today, and the policies relating to the undertaking of investigations had also not developed to the point it has today.

Shortly after the crime occurred, the FBI consulted with the Criminal Division, to determine whether there was any basis for jurisdiction in this matter, and we advised that there was one statute that appeared to be applicable, and that related to the killing of internationally protected persons; that was based on the status of the Marines as embassy guards, and therefore, accredited embassy personnel.

However, the decision was also reached within the government, that the appropriate role was to support the efforts of Salvadoran law enforcement and of the Salvadoran government in this matter. And for that reason, the formative stages of the investigation were handled by the Salvadoran authorities.

In November, 1987, we were approached by the State Department, and asked to examine whether or not we had a basis to bring charges in this matter. Their concern was based on some indication that amnesties might be extended to people who might have been involved in this event.

As a result of that, in November, 1987, we undertook an investigation. We assigned senior prosecutors; the FBI assigned investigators, and several trips were made to El Salvador, to interview witnesses and to gather evidence.

As a result of those efforts, a cafe employee who had been wounded in the Zona Rosa shooting, was located, and we became satisfied that he could make a viable identification of one of the shooters, an individual named Rivas.

Based on that, we undertook efforts to determine whether this individual was willing to be relocated to the United States, and eventually arrangements were made to relocate him, and one of his family members, to the United States, so that he would be available as a witness, in the event that we were able to obtain custody of Rivas.

We concluded, also, at that time, that we did not have a basis for bringing charges against any other person involved in this offense. In September of 1989, we obtained an indictment in the case, and by that time the individual witness had been relocated to the United States.

Subsequently, as this Committee well knows, in 1991, Rivas was convicted in El Salvador and received a sentence of 25 years. Two other individuals were convicted of lesser offenses, of subversive association, and a fourth defendant was subsequently acquitted.

After Rivas had been incarcerated for approximately 10 years, in 1995, he was released when the law changed in El Salvador, relating to the length of incarceration of individuals who were juveniles at the time of their offense.

In the course of our efforts in this matter, we also looked at the information available relating to Pedro Andrade, and his possible involvement in the Zona Rosa murders. We concluded that we had insufficient evidence to prosecute him. Notwithstanding that conclusion, prosecutors remained firm in their opposition to Andrade's parole into the United States, based on the totality of the information available, including material that came through intelligence sources of the CIA. Prosecutors felt that the lack of a prosecutable case against Andrade should not be permitted to vitiate the agreement at the October 5, 1989, meeting, among the State Department, embassy personnel, CIA and Justice. That agreement had been that Andrade would not be paroled into the United States, unless it could be shown that he was not involved in the murders, and unless, also, further inter-agency consultation occurred. Subsequently prosecutors learned that Andrade had, in fact, been paroled into the United States. Although this served to bring him within the jurisdiction of the United States, it was still our conclusion that we did not have a viable basis to indict him, from the standpoint of the available evidence, and further, by the time he entered the United States, the statute of limitations on his crime had expired. It was, at that time, a five-year statute of limitations. That is one of the things that has been changed, as the legislation available to extraterritorial terrorist acts has been further developed; his crime would today not be subject to a statute of limitations.

And with that, Mr. Chairman, let me conclude, and I'd be happy to respond to any questions that the Committee might have.

Chairman SHELBY. Thank you.

Our next witness will be representing the Federal Bureau of Investigation. We have Dale Watson, Assistant Director of the National Security Division.

Mr. Watson.

STATEMENT OF DALE WATSON, ASSISTANT DIRECTOR, NATIONAL SECURITY DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. WATSON. Thank you, Senator Shelby.

I won't go over a lot of the facts that Jim Reynolds has related; I do have some comments to make, and some of them are—

Chairman SHELBY. You proceed as you wish.

Mr. WATSON. Okay. Because the attack occurred prior to the enactment of the Omnibus Diplomatic Security and Anti-terrorism Act of 1986, there was no clear FBI jurisdiction to investigate this case. Immediately following the attack, the FBI legal attache in Panama opened a foreign policy cooperation case, and offered FBI assistance to the ambassador and the government of El Salvador. It was determined in Washington that the initial U.S. government investigation would be handled by the Department of State Office of Security, and coordinated through the CIA station in El Salvador—in Salvador.

In keeping with U.S. policy goals, the U.S. ambassador felt that the Salvadorans should investigate and prosecute this case, without the U.S. taking over. DOJ agreed, and consistent with this consensus, the FBI's involvement, at this point, was limited to assisting Salvadoran and DOS investigators, by providing technical and forensic assistance.

Salvadoran authorities, with substantial U.S. assistance, eventually arrested three members of the PRTC. One was William Rivas, who was tried, convicted, and sentenced to 25 years in prison for his role in the attack. In July, 1988, Juan Morales was arrested for participating in the Zona Rosa attack. Morales was held until 1993, when he was tried and acquitted by the Salvadoran courts. In May, 1989, authorities arrested Pedro Andrade, believed to be the PRTC leader and intellectual author of the attack. Andrade was never charged in El Salvador.

In 1987 the FBI was advised that a general amnesty, that would apply to the perpetrators of the attack, was being considered. The FBI, in conjunction with the Department of Justice, took immediate steps to secure indictments under Title 18, U.S. Code Section 116, which makes the killing of an internationally-protected person, a crime punishable under United States law, no matter where the act occurs.

In September, 1988, a sealed indictment was returned by a federal grand jury, charging Rivas with murder and conspiracy to commit murder of internationally-protected persons.

The FBI has worked closely with the Department of Justice prosecutors in this case, to bring those responsible for the attack to justice. The case of Mr. Andrade is of particular concern to the FBI. Upon his arrest, the FBI immediately began efforts, in coordination with the Department of Justice prosecutors, to fully examine his role in the Zona Rosa attack, and pursue criminal charges against him in the United States. Although sufficient evidence was never obtained to charge Mr. Andrade in the United States, the FBI believed that enough intelligence exists to characterize him as one of the masterminds of the Zona Rosa attack.

When informed by the U.S. embassy that they wanted to parole Andrade in the United States, the FBI was vigorously opposed to any such proposal.

At an inter-agency meeting, as referred to by Mr. Reynolds, held between the FBI, DOJ, State Department, and CIA, this opposition was made abundantly clear. When a cable arrived from the U.S. embassy in El Salvador requesting Andrade's humanitarian parole, FBI personnel took no action to advise DOJ prosecutors of this request, assuming that the inter-agency meeting group would be con-

vened to address this request, as had all previous matters concerning this individual.

Chairman SHELBY. Why was that assumed?

Mr. WATSON. That was based upon the October meeting, and several inter-agency meetings that we'd had, that it was agreed upon by the agencies, that any forward movement on him would be called in inter-agency meeting.

Chairman SHELBY. Okay.

Mr. WATSON. The FBI was then, and is now, opposed to Mr. Andrade's presence, or that of any other terrorist, in the United States. I understand that, as a result of this case, a recommendation was adopted by INS to establish a policy for inter-agency coordination of parole request, in the same manner as visa waiver requests are handled. The FBI strongly supports this measure.

In recent years, the FBI has opposed the issuance of visas to leaders and members of the PRTC, the group responsible for ordering and planning and carrying out the attack on Zona Rosa, as well as members of the FMLN, and other terrorist groups who are ineligible for visas, based upon their past terrorist activities. Many former guerrillas are now members of the Salvadoran government, and some freely admit to their roles in planning and supporting attacks against U.S. persons and property. Even though they have been granted amnesty by their own government, the FBI opposes their entry into the United States, and can formally voice that opposition when such requests are made. This new policy will allow for parole requests to be coordinated in the same fashion.

In order to prevent these types of miscommunications from occurring, assigned responsibilities must be carefully executed, and established policies and procedures followed. This has been re-emphasized with all FBI managers and investigators, and is the focus of an inspection process.

Since the enactment of the terrorist statute in 1986, the FBI's role in investigating terrorism attacks on Americans has changed dramatically. In 1989 alone, the FBI investigated over 43 attacks against Americans abroad, 32 of which were in Latin America. We will continue to seek ways to improve our capabilities and performance in the war on terrorism.

And with that, Mr. Chairman, I would entertain any questions that you might have.

Chairman SHELBY. Thank you.

We have one more witness on the panel, that's Ms. Phyllis Coven?

Ms. COVEN. Yes.

Chairman SHELBY. Director, Office of International Affairs, representing the Immigration and Naturalization Service. Ms. Coven.

STATEMENT OF PHYLLIS COVEN, DIRECTOR, OFFICE OF INTERNATIONAL AFFAIRS, IMMIGRATION AND NATURALIZATION SERVICE

Ms. COVEN. Chairman Shelby, and Members of the Committee, as Director of the Office of International Affairs, which is the entity which is responsible for authorizing significant public parole requests, I am here to provide information providing procedures and circumstances relating to the 1990 parole of Pedro Andrade. I am

also here to describe procedures put in place to ensure that such a parole does not happen again.

In this respect, I want to extend, on behalf of the immigration service, our condolences to the families whose testimony we heard today.

With respect to the history of the Andrade parole, on March 30, 1990, the Department of State Visa Office presented an urgent request to the INS Office of International Affairs, for the parole of Mr. Andrade. The request stated that Mr. Andrade had provided valuable information during the investigation—

Chairman SHELBY. Excuse me, just a minute. Was this an urgent request? Is that what you deem as an urgent—

Ms. COVEN. I've been in my position since 1995, so I had to ask the same question. The answer that I received was "Yes".

Chairman SHELBY. An urgent request for this parole or entry into the—

Ms. COVEN. Yes.

Chairman SHELBY. By parole, are you speaking of entry into the United States?

Ms. COVEN. That is—

Chairman SHELBY. Parole is an immigration term, a legal term, is that right?

Ms. COVEN. Yes, it's a means of allowing someone's entry into the United States legally.

Chairman SHELBY. So you had an urgent request?

Ms. COVEN. It was presented to us that the man's life was in danger.

Chairman SHELBY. Okay.

Ms. COVEN [continuing]. As it was stated to us, was an urgent one, that needed urgent action.

Chairman SHELBY. Okay, you go ahead.

Senator CHAFEE. But could you just tell us what the word "parole" means again?

Ms. COVEN. Parole?

Senator CHAFEE. I'm not sure I understand it.

Ms. COVEN. There's a specific statute, and it's 2-12—

Senator CHAFEE. That's all right—you don't have to tell us what that is. What does it mean?

Ms. COVEN. It's a specific statute, it means—it's a provision which allows the Attorney General to authorize, in certain circumstances, an individual to be admitted into the United States for a temporary basis, without going through standard immigration procedures such as receiving a family visa, a visa based on family reunification, or an employment based visa.

Chairman SHELBY. So by this one would jump the hurdle, so to speak, would not go through the regular immigration process, but by parole, you would jump over the hurdles and come on in, is that correct?

Ms. COVEN. That's right.

Chairman SHELBY. Okay. Go ahead.

Ms. COVEN. Paroles are issued on the basis of there being a basis of a significant public benefit, and in this instance, one related to law enforcement purposes.

Chairman SHELBY. So it's predicated on a significant public benefit, for you to jump the hurdles?

Ms. COVEN. That's right.

Chairman SHELBY. Go ahead, you proceed.

Ms. COVEN. Again, the parole request stated that Mr. Andrade's life was in danger. The visa office explained that although Mr. Andrade was not a member of the FMLN—was a member of the FMLN, he was not linked to the Zona Rosa murders. Based on the information provided by the visa office and its representations of urgency, the INS authorized parole for Mr. Andrade.

Several months after the parole was approved, and shortly after Mr. Andrade's arrival in the United States, an Assistant U.S. attorney for the District of Columbia, Brian Murtaugh, questioned INS staff about the parole authorization. Mr. Murtaugh asked INS if, before the agency had approved the parole of Mr. Andrade, it knew that the U.S. Attorney was strongly opposed to that parole. He also asked if INS had ever been provided any information concerning the investigation of the Zona Rosa killings, beyond the background provided from the visa office, in their parole request.

The answers to both questions were no. INS had not been privy to any prior interagency discussions concerning Mr. Andrade. Had the INS been aware of the U.S. Attorney's objections to Mr. Andrade's parole, the INS would have denied the parole request. Moreover, the joint report of the Inspector General—I'm sorry, the report of the Inspector General of the Department of Justice found that the INS did not act improperly when it processed Mr. Andrade's parole, in conformity with its normal procedure.

Quoting further from the report, "INS received no information about any controversy or objections to the parole. When it reviewed the parole request, INS relied on the Department of State to have properly coordinated with any other interested agencies. INS did not normally at the time, nor should it be expected to, conduct an independent investigation into the facts of each parole request, the identity of interested agencies, or the position of all interested agencies on each of its hundreds of parole requests. It was not unreasonable for the INS to rely on the requesting agency to coordinate the parole request in advance, and to provide notice to INS that the request was opposed by other agencies."

That's a quote from the Inspector General's report.

The previous practice that the Inspector General was commenting on is as follows: the great majority of requests for significant public interest parole are submitted by law enforcement agencies in order to secure witnesses, informants, and defendants for trials in the United States. Requests from the Department of State are rare. Until recently—

Chairman SHELBY. How rare?

Ms. COVEN. Between five and ten a year.

Chairman SHELBY. Five and ten a year. Go ahead.

Ms. COVEN. Closer to five in the last several years.

Until recently, there has been no formal procedure for submitting these requests. Each request has been handled on a case by case basis carefully balancing the need for integrity in the immigration system with the significant law enforcement interests, confidentiality, and security issues raised by the requesting agency.

Following the recommendation of the Inspector General's report, the Deputy Attorney General asked the INS to formalize procedures for processing public interest parole requests in order to ensure coordination with other interested agencies prior to authorization, and to prevent the circumstances of the Andrade case from re-occurring.

The INS has prepared written protocols for the submission, review, and approval of significant public benefit parole requests from both the Department of State and Federal law enforcement agencies. These protocols significantly improve the process by standardizing the information submitted with each request, adding several layers of accountability and review within the requesting agency, and providing a mechanism to ensure that all interested Federal agencies are given the opportunity to object or concur with the request prior to a decision by the INS being made.

Under the new protocols, the requesting agency is required to provide a complete justification for the request on a standardized form. The justification must describe the significance of the case, the value of the proposed parolee to the case, the basis or source of the proposed parolee's information, what was their involvement in the case, the requesting agency's knowledge of the proposed parolee's involvement in that case, or in any other criminal proceeding, or with any other government agency, and proposed security precautions and logistics associated with the parolee's arrival.

The request—in addition to providing that information, the request must be accompanied printouts from the State Department and principle law enforcement agencies databases or lookout systems, the computer printouts that indicates that information.

Chairman SHELBY. Sure.

Ms. COVEN. Upon receiving the completed request, the INS will circulate the information to designated individuals at the principal Federal law enforcement agencies using a standardized notice form. Each agency will be required to respond to this notice, acknowledging its concurrence, or submitting a formal objection, by a specified time. Department of State's requests must also be accompanied by an attestation form signed by both the deputy chief of mission, and the deputy assistant secretary for visa services, stating the following:

One, that the information set forth in the request is accurate and complete;

Two, that name checks have been completed in the class database, the State Department Consular Affairs database, as well as, to the extent appropriate, foreign government's lookout systems;

Three, that all database checks have been forwarded to the INS along with printouts;

Four, that all U.S. government agencies known by the Department of State to have an interest in the case or in the proposed parolee, have been identified, and informed of the request;

And, five, that the request has been approved by the law enforcement committee at the embassy from which the request originates.

In addition, requests from law enforcement agencies are required now to be submitted over the signature of a designated senior headquarters official.

INS believes that these new protocols will significantly improve the parole authorization process and ensure that the Andrade situation is not repeated.

This completes my testimony and I'd be pleased to answer any questions.

Chairman SHELBY. Ms. Coven, who signed the request from the State Department, through the State Department that Mr. Andrade be paroled or admitted into the United States? Who signed that?

Ms. COVEN. The deputy chief of mission from the embassy.

Chairman SHELBY. And, who would that be?

Ms. COVEN. It depends on the embassy.

Chairman SHELBY. Well, who was it in this case?

Ms. COVEN. In this case—Ambassador, you might be able to—there's a—

Chairman SHELBY. Can you—

Ms. COVEN [continuing]. DCM at the embassy.

Chairman SHELBY. Will you finish that for the record?

Ms. COVEN. I would—

Chairman SHELBY. Mr. Ambassador, you want—

Mr. WALKER. Mr. Chairman, are you asking who signed the request that went to INS?

Chairman SHELBY. Right. Absolutely.

Mr. WALKER. I don't think it was the DCM. I mean—

Ms. COVEN. No, who signed the previous—

Chairman SHELBY. Yes. In other words, who requested to the Immigration and Naturalization Service that Pedro Andrade be paroled or admitted into the United States?

Ms. COVEN. I believe the request simply came over from the visa office without a senior representative making it.

Chairman SHELBY. Well, I know that, but was it a junior representative? Somebody signed the request. You don't just—I don't fax you a piece of paper unsigned, and you act on it, and you jump all the hurdles of the immigration process, and under extraordinary circumstances, and admit or parole someone like this into the United States, do you?

Ms. COVEN. Well, we can go back to you sir, and report exactly who signed the request.

Chairman SHELBY. Isn't that relevant? It would be to me. Who did this? Who's accountable? Who's responsible for this? This is unusual circumstances. You even said yourself it's a parole situation—only Senator Chafee got you to identify or define what that meant—the entry like this into the United States, five requests a year, or something like that? So, it's an extraordinary request, is that right?

Ms. COVEN. Yes, and I believe lessons have been learned, and now we're going to—

Chairman SHELBY. Well, I know, but we're going back to what happened then.

Ms. COVEN. I'll have to get that information and furnish that.

Chairman SHELBY. Will you furnish that for the record?

Ms. COVEN. Yes.

Chairman SHELBY. Mr. O'Neil, as the General Counsel for the CIA, the CIA's assessment of the evidence by various guerrilla

group members and other informed parties, that Andrade, Pedro Andrade, was the principal, or one of the principal planners of the Zona Rosa attack, did the CIA—in other words, given that, given that fact, did the CIA inform the legal officer, or Ambassador Walker, of that conclusion, and wasn't a CIA cable sent to the station in El Salvador in January of 1990 informing them of the conclusions? And, if this was true, why wasn't this shared with the Ambassador at that time? You want to comment on that again?

Mr. O'NEIL. You're correct, Mr. Chairman. It was provided by CIA Headquarters to the station in San Salvador. And—

Chairman SHELBY. And, what was provided?

Mr. O'NEIL. The assessment to which you refer.

Chairman SHELBY. Okay.

Mr. O'NEIL. And, the—

Chairman SHELBY. And, what was that assessment? Just for the record, again.

Mr. O'NEIL. That Andrade had been involved in the planning and preparation for the attacks, although he had not been directly involved in the shooting.

Chairman SHELBY. And, that was sent to the station chief?

Mr. O'NEIL. Yes, sir.

Chairman SHELBY. In El Salvador?

Mr. O'NEIL. Yes.

Chairman SHELBY. And, was the Ambassador, in fact, informed of that?

Mr. O'NEIL. Well, I think the Ambassador can testify directly on that.

Chairman SHELBY. Ambassador Walker.

Mr. O'NEIL. The station chief indicated to us that this was passed to the embassy.

Chairman SHELBY. Ambassador Walker, were you informed of that?

Mr. WALKER. I can only speak for whether he informed me or not, and my answer is no.

Chairman SHELBY. Okay.

Mr. WALKER. He made it sound as though Mr. Andrade's involvement was somewhat ambiguous, and did refer to these polygraph examinations.

Chairman SHELBY. Mr. O'Neil, have you reviewed the cable that was sent out in 1990 by the CIA?

Mr. O'NEIL. I have not personally reviewed it. I have relied on the Inspector General's report.

Chairman SHELBY. Well, then, did the Inspector General relate in any way that the cable was ambiguous, or Mr. Andrade's role was ambiguous in some way?

Mr. O'NEIL. I don't believe so. No, sir.

Chairman SHELBY. It was clear, and stated with clarity, was it not?

Mr. O'NEIL. I believe so. Yes.

Chairman SHELBY. So, basically, the cable was ignored?

Mr. O'NEIL. Well, there appears to be—

Chairman SHELBY. The Ambassador was not notified. It just sat there, did it not?

Mr. O'NEIL. As I say, the Chief of Station told the Inspector General that he had provided the information to the embassy. There's obviously a disagreement about that.

Chairman SHELBY. Is the Chief of Station still with the CIA?

Mr. O'NEIL. No sir.

Chairman SHELBY. Okay. Ambassador Walker, what factors led the State Department officials in the U.S. Embassy in El Salvador to conclude, if you recall, that Andrade was not materially involved in the planning of the Zona Rosa attack? One, if you didn't have the knowledge of the cable, that would be lack of evidence, I guess that you would know about.

Mr. WALKER. I think probably the most discussed evidence had to do with these polygraph examinations.

Chairman SHELBY. Uh-huh.

Mr. WALKER. And, until your committee started looking into it, and the Inspector Generals issued their report, I had not been told that there was some lack of accuracy on the first one. I was told that he had passed two polygraph examinations. Absent some of this information that has subsequently come out as to what DOJ, or what CIA, you know, thought was the preponderance of evidence, we took that polygraph examination, which was specifically directed to questions about Zona Rosa participation, as being indicative that, you know, it was ambiguous, and that he probably was marginally involved, but not a principal player in the Zona Rosa assassinations.

Chairman SHELBY. Ambassador Walker—

Mr. WALKER. Yes, sir?

Chairman SHELBY [continuing]. You just stated that the CIA did not inform you, as ambassador, about that cable we referred to. Did the Justice Department inform you as ambassador?

Mr. WALKER. No, sir.

Chairman SHELBY. Were you aware of it in any way?

Mr. WALKER. I was told when Mr. Chidester came back from a trip he made to Washington, that he had attended a meeting in the State Department—he happened to be in Washington, he was invited to participate. And when he came back, he said that there were people in Washington who had problems with Andrade receiving parole. I believe—my memory is not totally clear on this, but I believe he said DOJ was among those who was hard over on that particular issue.

Chairman SHELBY. Okay.

Just to try to get some of this straight the best we can, the picture we get, or I get, of the approval process for the Andrade parole request is very confusing and very discouraging. The State Department, as I understand it, claims that the CIA first proposed Andrade's entry into the United States. The CIA, basically, denies responsibility for, and even knowledge of, the request. But, the CIA station in El Salvador paid for Andrade's ticket to Miami. Embassy officials submitted the request while failing to notify all interested parties and officials in Washington. And failed to—and then the officials in Washington failed to convene another interagency meeting—meetings between all of you—to discuss the parole or entry request.

Who had an interest in admitting or paroling Andrade into the United States? Ambassador Walker.

Mr. WALKER. I think that goes to the heart of the question—Chairman SHELBY. Absolutely. It's simple.

Mr. WALKER [continuing]. I put to you, and I think some of the facts that you've described, payments right up to the moment of departure, purchasing the ticket for \$300, filming him, all of these were not functions of Mr. Chidester or the embassy itself. They were a function of one particular component therein.

Chairman SHELBY. I asked earlier, who requested specifically to, you know, INS, Mr. Andrade's parole or entry into the United States. She said she would furnish this to the Committee for the record.

Mr. O'Neil, if the CIA if, in fact, did not concur with the parole request, or entry request, why did the CIA provide \$300 for the plane ticket for Mr. Andrade? Do you have any—

Mr. O'NEIL. I can only give you the following, Senator. If I may return to something you said earlier—

Chairman SHELBY. But, you'll come back to this, though?

Mr. O'NEIL. I certainly will, sir.

You said that the CIA wasn't aware of the request, and that is indeed what our station chief says, and what the Inspector General determined, based on a lack of any documentary evidence.

Chairman SHELBY. I'm just relating what we have learned.

Mr. O'NEIL. Yes, sir. I understand. But, I wanted to note that we certainly were involved in discussions earlier about whether this would be an appropriate thing or not.

But, to return to your question, as I indicated in my testimony, the Agency provided assistance to the Salvadoran government in its debriefing of Andrade over a period of months. And, this was the last and final payment in that measure of assistance that was provided. It was an expenditure made directly by CIA. And, it was done after the parole had been requested and approved.

Chairman SHELBY. How was the parole request cable "slugged" for distribution, and what do you mean by slugged, that's a term?

Mr. O'NEIL. Well, slugs, sir, are headers, or indicators on cables that indicate who's attention they have to be—

Chairman SHELBY. That's right.

Mr. O'NEIL [continuing]. Brought to or the nature of the cable traffic itself. The request—the cable in question was a State Department cable, a copy of which was sent to CIA Headquarters and routed to the unit in our Headquarters building that followed all of Central American affairs.

Chairman SHELBY. Senator Kerrey.

Vice Chairman KERREY. First of all, Mr. Chairman, I must say that—I'll to Senator Chafee on this question as well. It does seem to me that in a case where Marines are assigned to the State Department working in an embassy, that that should not relieve the Navy, or the Marine Corps in this case, the responsibility of presuming that they're going to follow up. And, it seems to me that the Navy should have been notified. The Marines should have notified of, first of all, the progress in the case, and, secondly, the likelihood of somebody that might be involved with the case being allowed out of country.

I don't know whether their procedures permit that. It doesn't appear, Mr. Chairman, that the exchange of correspondence between you, and the Secretary, on November 16th, your letter, he responds, I guess January 29 of '96, it doesn't appear in that exchange that there is a procedure to do that. But I would certainly want to know if I was in the Navy, or if I was in the Marine Corps, and I'm on assignment to the State Department, that I'm still a member of the Marine Corps, and that the Commandant of the Marine Corps, the Secretary of the Navy, was going to continue to assume responsibility for my well being, my safety, as well as the case at hand. And, I don't know what the procedure is.

This is not for any of the witnesses because there's nobody here from the Navy, or from the Marine Corps, but if the procedure isn't that way, it ought to be, and if they need a law to require it, it seems to me appropriate that the law dictate, in fact, that they not only be given that information, but retain that responsibility.

Chairman SHELBY. Do you want to comment?

Senator CHAFEE. Well, let the record clearly show, I wasn't Secretary of the Navy at this time.

Vice Chairman KERREY. He was responsible for me when he was Secretary of the Navy.

Senator CHAFEE. Yes. I think throughout this, I think on the previous panel one of the witnesses testified that there was confusion between whether the Department of Defense was the person they appeal to, or is it the Department of State? Who did the Marines work for? And, I think that's a very valid point.

Ambassador?

Mr. WALKER. Let me take a crack at that, sir.

The marine security guards at the embassies around the world answer essentially up two chains of command. They obviously answer, in the country to which they are assigned, to the embassy to the ambassador. But, there is also a military chain of command that they answer to which goes through a regional military security guard command. And, believe me, during that time I was in Salvador, the Marine officers that would come down to inspect the units were always asking questions about Zona Rosa and how things were progressing. So, I mean, the Marine Corps was certainly aware in the person of the commanding structure of the Marines at the embassy of what was taking place vis-a-vis amnesties, vis-a-vis investigations, arrests, and that sort of thing.

So, you know, I don't know what happened in Washington vis-a-vis Marine Corps headquarters, or the Department of the Navy, and that sort of thing.

Vice Chairman KERREY. I just think—

Mr. WALKER. But, at a local level, there was that other chain of command.

Vice Chairman KERREY. Well, can I just read you the relevant sentence in a paragraph of this letter sent to Senator Shelby 29 January 1996 from a lieutenant general, or the deputy chief of staff for manpower and reserve, he says, "No further assistance has been provided to or requested by the families since 1985". And, whether they requested assistance or not, to me, is not the relevant issue. It seems to me that they should be following this thing all

the way to the end, and they should be infoed and slugged, or whatever it is, so they're kept in contact.

And, again, whether this requires a procedural change, Mr. Chairman, or whether it actually takes a change in the law to require this, but it does seem to me that a person assigned to the State Department, or the Department of Agriculture, or wherever they are, should still know, alive or dead, that the Commandant of the Marine Corps, the Chief of Naval Operations, or whoever it is that's over your command, is going to watch over you.

Let me ask you, first of all, Mr. Chairman, if it's appropriate, I think it would be useful for the families to get a copy of the memorandum that was provided by Mr. Chidester. Is it Chidester?

Mr. WALKER. Chidester.

Vice Chairman KERREY. Chidester, to us—

Mr. WALKER. Absolutely.

Vice Chairman KERREY. Because there's some answers to questions that the families may have.

But, Mr. Chidester says in there that—where is the operative one? He said, "I was in daily contact with the CIA, particularly in selecting a departure date for Andrade. That departure date was driven by the station's desire to make a video of a reformed guerrilla. Much of my time is consumed to working with Pedro in the development of this video. After the video is completed, I was then told that CIA headquarters had decided not to use the tape".

And here's the operative line that I'd like to ask Mr. O'Neil, and Mr. Watson, and Mr. Reynolds if this was your view in '89 or 1990, "I was never told that there was opposition within the agency to Pedro's receiving parole."

Now, what was the agency's view in '89 and '90 of Andrade? That he was deserving of parole? And, what was FBI and Justice's evaluation at that particular time?

Mr. O'NEIL. If I can begin, Senator Kerrey.

In December of 1989, after the review of all the intelligence CIA held about Andrade was completed, CIA's lawyers concluded that he was indeed involved in the planning and preparation for the attack.

Vice Chairman KERREY. Well, how is it possible, then, that Mr. Chidester doesn't know that?

Mr. O'NEIL. I can only tell you there is certainly a disagreement about that, and relying on the Inspector General's report, which in turn relied on the interview of our Chief of Station, he indicated that this information was provided within the embassy. Clearly, Ambassador Walker and others disagree.

Vice Chairman KERREY. And, Mr. Watson and Mr. Reynolds, what was FBI and Justice's assessment at the time?

Mr. WATSON. Go ahead.

Mr. REYNOLDS. Well, let me comment first on—I can't say what was going on between CIA Headquarters and Mr. Chidester. However, as relates to his knowledge of the DOJ position, he certainly was aware of the DOJ position from meetings in the fall of 1989. I think specifically October 5, 1985—

Vice Chairman KERREY. '89?

Mr. REYNOLDS. I'm sorry, '89.

He was in attendance at that meeting. It's my understanding that—

Vice Chairman KERREY. In DC?

Mr. REYNOLDS. I believe that's correct, yes. And, as far as I understand, everybody in attendance with that meeting left the meeting understanding the position of the department and the FBI, with the possible exception of Mr. Chidester. But, I mean, our belief is that he fully comprehended, as everybody else did, what the position was at that time.

Beyond that, I must say there's been extensive Inspector General investigations, and I think that reaching further judgments probably is better left to the Inspector Generals or to this Committee based on the Inspector General reports. But, I can speak to the October 5th, 1989 meeting.

Vice Chairman KERREY. Mr. Watson.

Mr. WATSON. Yes, Senator Kerrey.

I agree with Mr. Reynolds in the fact that it was clear that at that point in time we opposed to his parole in the United States. That was clearly an interagency meeting on October 5th where individuals present knew what our position was.

Chairman SHELBY. Excuse me, Senator. Was it unambiguous that you were opposed to Mr. Andrade's parole, or entry into the United States, Mr. Watson?

Mr. WATSON. Senator, I wasn't present at that meeting. I wasn't assigned there at the time, but it's our understanding that the bureau, along with the department, was very clear.

Chairman SHELBY. Department of Justice.

Mr. WATSON. Yes, sir.

Vice Chairman KERREY. What responsibility do you all have—that's fine, Mr. Chairman. What responsibility do you all have? I must say, you know, this Mr. Chidester is operating down in a pretty dangerous environment, right? It's not like he's sitting down there, you know, trying to figure out what to do for a living. I mean, it's a pretty dangerous environment at a very, very difficult time in El Salvador.

So he comes up here for a meeting, and then you now say, and the Inspector General reports say, he knew, and he should have known on the fifth, it's unambiguous, blah, blah, blah. You know, but we're all sitting up here, and it's relatively safe here in Washington, DC. He's down there operating in El Salvador.

I mean, what requirement do you all have to say to, you know, we've got to act affirmatively here. We've got to make it clear—we've got to make it clear that this individual—that we've now concluded this individual was involved in Zona Rosa. We've got evidence that he's involved in Zona Rosa. And, we understand the operational problems down there. I mean, we're going to make an effort to understand what's going on down there in the field, that he's operating in a very dangerous environment with a lot a pressures on him, and, that we have to make it clear in writing, we have to make it clear by getting together ourselves and saying we understand there's conflicting needs here from the Intelligence Community. But, Americans have been killed, and that takes priority as a consequence.

I mean, what responsibility do you all have sitting up here in headquarters to make certain that somebody that's operating out there in a dangerous environment has the information, rather than coming back, you know, 10 years afterwards, and it's basically a difference in opinion between two individuals in El Salvador?

Mr. O'NEILL. Well, may I make two comments, Senator Kerrey? One is that Ambassador Walker referred to the situation at the time in El Salvador as being one of great tension and significant danger to the Americans that were stationed there. That's true. It also had an effect on the operations of both of our station and of the embassy. They were prepared for the possibility of an assault on the embassy, and the actual paper holdings of intelligence information there were slim.

Under those kind of circumstances, you rely on Headquarters for an awful lot of the coordination process that he was referring to in the visa situation, but also in terms of the day to day intelligence activities in which the station has to rely on the greater knowledge of Headquarters.

That's why, among other things, the assessment was done back here in Washington about all of the intelligence about Andrade.

Vice Chairman KERREY. But, in Washington, Mr. O'Neil, and Mr. Watson, Mr. Reynolds, were you aware that there was a possibility of a parole application?

Mr. O'NEIL. Yes, sir. It had been discussed starting in September of that year, and—

Vice Chairman KERREY. So, why in possession—I mean, in possession of the information that Andrade was connected to Zona Rosa, why in possession of that information, did you not affirmatively say no parole is going to be granted?

Mr. O'NEIL. Well, our—

Vice Chairman KERREY. Rather than leaving it to the people in El Salvador, who are obviously, you know, engaged in difficult judgment issues. I mean, why leave it to, you know, to a single meeting on the 5th of October in 1980—no, I'm getting my dates wrong—'89?

Mr. O'NEIL. Well, in fact, that's what happened, sir. Our Headquarters instructed our station in El Salvador in the wake of that October meeting to ensure that nothing happened with respect to a possible parole without coordination with headquarters.

Vice Chairman KERREY. You're saying that you communicated to the station, and said no parole without—and do you think station—

Mr. O'NEIL. Reflecting the discussion that had taken place in October in the meeting to which we were earlier talking—which we referred—

Vice Chairman KERREY. And you think you were as firm and clear and unambiguous as necessary, given, you know, the amount of information that, in particular Mr. Chidester had, in regard to the case?

Mr. O'NEIL. Well, our instruction was to our Chief of Station, sir, not to Mr. Chidester.

Vice Chairman KERREY. So, you instructed—but, the chief of station is an employee of the ambassador. He works for the ambas-

sador, and it's the ambassador making the decision at the time. So, you—right?

Mr. O'NEIL. I'm just trying to say that there was an interagency meeting in Washington, DC to talk about this matter. On that occasion—

Vice Chairman KERREY. Let me take the one piece of evidence—

Mr. O'NEIL. Certainly.

Vice Chairman KERREY [continuing]. That we've got, which is the payment for the airline ticket. Who would approve that?

Mr. O'NEIL. That was approved in San Salvador.

Vice Chairman KERREY. So, it would be approved by the man that you instructed?

Mr. O'NEIL. It was approved by the station, yes.

Vice Chairman KERREY. So, you told the station not to do this under any circumstances, and he approved the airplane ticket out?

Mr. O'NEIL. Remember, on that occasion, by that point, the parole had already been applied for and approved.

Vice Chairman KERREY. Well, I appreciate it's been applied for and approved, but if you had told the station that you believe, and he knows, that this individual is implicated in Zona Rosa, we appreciate that it's already been applied for and approved, but, you know, the purchase of an airline ticket can be stopped, right? I mean, he certainly has a sufficient amount of independence to be able to go to the ambassador and say we're making a mistake here.

Mr. O'NEIL. The parole was approved by the Department of Justice and the Department of State. At that point, the only act left was Mr. Andrade leaving El Salvador for the United States.

Vice Chairman KERREY. Even though—but you're saying, Mr. O'Neil, that from Washington, and all three of you are saying, that it was unambiguous to Mr. Chidester, and I presume the station as well, that Mr. Andrade was connected with Zona Rosa?

Mr. O'NEIL. I'm talking about the communication between CIA Headquarters and our station.

Vice Chairman KERREY. I understand, But, I took—you communicate to station, and you say to station in El Salvador that you believe that Andrade is connected to Zona Rosa, and therefore, should not be granted parole, should not be allowed to leave. Mr. Watson, and Mr. Reynolds, have said as well on the 5th of October meeting in 1989, they were very clear about that too. And, the question is—and I appreciate it's all been approved and so forth, but the station, knowing that, still had to buy an airline ticket out.

Mr. O'NEIL. Yes, sir, they did.

Vice Chairman KERREY. And, the question I've got is—

Mr. O'NEIL. At that point the issue of parole is moot, sir. It's already been granted. It's not a question of whether they should consult with Headquarters about further discussion of parole, it's already happened.

Vice Chairman KERREY. I don't understand. I mean, I appreciate that a rule is a rule, and the procedures have got to be followed, but I really don't understand why the person responsible for the release of funds, if he knows that Mr. Andrade is connected with Zona Rosa, would say that I'm not going to release the funds regardless of what's happened up to this time. Because I'm not going

to allow a man out of the country who is responsible for American deaths.

Mr. O'NEILL. Well, sir, I think the only response I can give you to that is that, as I've just said, the parole had already been approved. That meant that however the process worked back here in Washington, the decision had been made that it would go forward.

Now, we know now, after the fact, that there wasn't appropriate coordination. There wasn't appropriate alertness. But, it had happened.

Chairman SHELBY. The bottom line is did anybody care? You know, it seems, like Senator Kerrey was getting at, the parole was granted, do what? You know, if you have information there that this man was implicated in the Zona Rosa murders, I mean, if it came across a reasonable person, they would way, wait, hold a minute. Maybe the immigration people don't know this? Maybe somebody doesn't know this? Maybe there's a disconnect somewhat? Not that it was granted. Things are granted and then they are taken back. You know, they're reconsidered. They could reconsider that grant of parole. I think that's what Senator Kerrey may have been at. I'm sorry to interrupt you.

Vice Chairman KERREY. No that's fine. My red lights is on. I'm at the end of my fuse here. But, I mean, it seems to me that even though—I hear what you're saying, Mr. O'Neil, that the approval and all had been granted, that station, in approving the release of funds for the purchase of an airline ticket should have said I don't care what's happened here, we're not letting this guy out.

Chairman SHELBY. Senator Chafee.

Senator CHAFEE. Thank you Mr. Chairman.

First of all, I think it is important for us to remember the conditions that Ambassador Walker discussed. El Salvador, at the time, was war zone, in fact. And I can appreciate the tense and the hurried actions at the embassy because, as did others from the Senate, I visited El Savador at the time and got some feel of it. Obviously I wasn't there permanently, and you fly in an you're there two or three days and you leave, but still you get some sense of what's going on, and I think it's important for use to remember that.

I think at the same time that all this was going on, the judicial system in El Salvador was, to put it in most favorable terms, in disarray. I think judges had been murdered, hadn't they, Ambassador?

Mr. WALKER. A member of the court was murdered.

Senator CHAFEE. Yes. I remembered, was it chief justice or a member—

Mr. WALKER. President of the Supreme Court.

Senator. CHAFEE. The President of the Supreme Court was murdered.

And I think it's important for us to note that three of these murderers—I call them murderers, not killers, they were murderers of the Marines—indeed did go to jail, which it's easy to sit here and look back and think everything was easily done but for your man, Mr.—what was his name?

Mr. WALKER. Chidester.

Senator CHAFEE. Chidester. And I guess he played a key role in it. To have obtained convictions of three was quite an achievement

because I think we all—at least I remember the conditions at the time in El Salvador.

Now I'd just like to see if If could go through this and first, Mr. Hamilton from the State Department says on page 5 of his testimony that the Salvadoran government determined it could not prosecute Mr. Andrade successfully. This is what you say, Mr. Hamilton. The U.S. Justice Department also determined there is insufficient admissible evidence to support a U.S. prosecution.

Now, I don't know how you can speak for the Justice Department. How did you get that statement? The Justice Department had determined there's insufficient evidence. We may get to that later.

Mr. HAMILTON. From the Department of Justice Inspector General report, sir.

Senator CHAFEE. Then we get the next page of your testimony where you talked about the cooperation of Andrade, His cooperation led Salvadoran authorities to the largest FMLN arms cache discovered during the war, and produced significant information of FMLN operations in Nicaragua and ties to Cuba, among other topics.

In March of 1990 the embassy proposed Andrade for humanitarian parole. The embassy pointed out that Andrade was alleged to be the intellectual author of the massacres but noted his cooperation and the assessment was based on the information that he was not involved in the murders. So I'm just trying to piece this thing together based on the evidence that we've got.

Now, Mr. O'Neil from the CIA says that he admitted—Andrade admitted to being one of the four men involved in planning the Zona Rosa operation and was given the task of arranging a hideout, for medical care, and never actually made those arrangements. Now, that's the first time, at least as I read the material, that he's admitted being involved in planning the operation. And then you talked about the divulged—he did everything on a quid pro quo basis, get some information and get something and he'd divulge what he knew. That's the first statement I've found, Mr. O'Neil, that he admitted that he was involved in planning this.

Where did you get that from?

Mr. O'NEIL. From Mr. Andrade. Those were the statements he made to the Salvadorans. I mentioned that in my testimony as a counterpoint to what we believe. We believe he had more significant involvement in it than he admitted, but at least he admitted that he was involved in discussions with, he claims, superiors of his who were more deeply involved in doing the actual planning, and he also denies ever having made the actual arrangements for safe houses and medical care.

In any event, he certainly admitted at the least to being involved in those kind of discussions.

Senator CHAFEE. But then we get to Mr. Watson of the FBI on page 5 at the top. It seems to me the FBI is trying to have it both ways. They say, although sufficient evidence was never obtained to charge Andrade, the FBI believes enough intelligence exists to characterize him as one of the masterminds of the attack. I cannot understand that. You're saying there's enough intelligence to characterize him as one of the masterminds, yet there was never suffi-

cient evidence to charge him. Aren't you trying to have it both ways?

Mr. HAMILTON. No, sir, Senator. As far as bringing a criminal charge, working with Mr. Reynolds and the Department of Justice, there was not sufficient criminal evidence, you know, obtainable, acceptable in the U.S. courts to bring charges against him. There were interviews and information provided by the host government. It was clear that he had some involvement in the murder.

Senator CHAFEE. Well, here Mr. O'Neil says that he admitted it.

Mr. HAMILTON. Yes, sir, that is correct, but legally speaking—I'll let Mr. Reynolds address that specific issue—you can't have intelligence that clearly indicates someone involved and not have enough for presentable evidence acceptable in a U.S. court beyond a reasonable doubt to convict someone.

Jim, you want to make any comments on that?

Mr. REYNOLDS. Let me indicate, Senator, the information being described is information, as I understand it, that comes out of a CIA cable, the authenticity of which I can't address. However, there was an FBI interview of Andrade in which he provided information indicating that he was asked to provide some assistance in advance of an operation. It doesn't describe with specificity what the operation is and that he never followed through and provided the assistance. That is the information that we have.

Senator CHAFEE. As I get the picture, you have down on the scene the ambassador, the embassy, and the ambassador's assistant who are dealing with urgent matters and they find this man Andrade produces information that leads them to arms caches and all that. So you appreciate that. That helps you in your cause. Your cause there is to defeat the civil insurrection that's occurring.

And so then you—and then these horrible murders take place. There's some implication of this man in it, but it seems not enough to prosecute, although three others were prosecuted. By the way, did any of the three that were convicted ever say anything about Andrade? What did they say about him, or didn't they say anything? Does anybody know? Did they point the finger at their cohort?

Mr. REYNOLDS. One of the three that was convicted initially provided some information concerning Andrade and then retracted his statement, said it was a lie, and additionally this is an individual whose original statement also indicated that he was at the scene of the event. When taken to the scene of the event he couldn't reestablish anything. He couldn't establish what was where, so that the—

Senator CHAFEE. Who's this, Andrade or the—

Mr. REYNOLDS. This is Garcia.

Senator CHAFEE. Garcia. And then you have the lie detector situation, which as I take it, he was given it twice and it was negative. I wasn't sure what the facts were on that.

Mr. REYNOLDS. Again, we're working off the IG report now. I mean, this was a Salvadoran—these were Salvadoran polygraph examinations, not polygraph examinations done by the FBI.

Senator CHAFEE. Okay.

Ambassador?

Mr. WALKER. I can add some light on that.

My understanding is he took two polygraph examinations administered by the special investigative unit which was a special unit of the Salvadoran police that had been trained by the FBI by ICITAP[?]. As I say, an FBI polygrapher came down later in connection with the Jesuit case and said those were two valid polygraph exams.

The first exam, I was recently told, asked a number of questions. He passed on most of the questions but there were three or four in which the results were inconclusive. That called for a reexamination. On the reexamination addressing those three or four areas, he passed completely.

Senator CHAFEE. You mean, it was negative, in other words?

Mr. WALKER. Yes. That it indicated marginal involvement but not the type of involvement that he'd been asked about.

Senator CHAFEE. Well, let me just sum up this thing and see if I've got this thing in my mind correctly. We have here this horrible murder, these murders. We have—and you get convictions of three—three of them. The other, Andrade, you suspect him, intelligence exists to characterize him as one of the masterminds but not enough sufficient evidence was ever obtained to charge him.

Meanwhile he's being of considerable assistance to our efforts there, through the revealing of the largest arms cache that was discovered during the war. By the way, this war went on how many years?

Mr. WALKER. Started in 1979; it finished on January 1, 1992.

Senator CHAFEE. That's 13 years of warfare.

So he proves a valuable source of information. At the same time, by doing this he imperils his own life. He's a marked target now. And somehow—and I'm confused as to who proposed it—he's proposed for parole in the U.S. and eventually gets it. Now, is that—I am I correct in my assessment of the situation? The FBI and the CIA—well, no. The FBI and the Justice Department were unenthusiastic, at least you're indicating it now, about this but you didn't have enough to go after him. Am I correct in that? That's what you say in your testimony.

Mr. REYNOLDS. That is correct. We did not have enough to prosecute the case.

Senator CHAFEE. All right. I'm not sure where that leaves us, but—

Mr. REYNOLDS. Could I, at the risk of being a volunteer, if I could make a comment.

Chairman SHELBY. Go ahead, Mr. Reynolds.

Mr. REYNOLDS. I mean, I think that those that watch either are a part of law enforcement or watch it from a distance, recognize that in law enforcement oftentimes there's the necessity of dealing with the devil for a greater good, and that occurs in all kinds of investigative activities. So I don't think anyone should walk away from this believing that for a greater good perhaps there might have been a legitimate basis to take action.

The item that concerns us was at the meetings there was an understanding that action would not be taken without a further vetting with all the agencies that had an interest here. It is our belief that that was clearly understood and what clearly subsequently occurred was that that vetting opportunity was never provided, and

that the FBI, the Justice Department, other agencies were deprived of an opportunity to be a part of a reasoned decision, however that decision would have come out.

Senator CHAFFEE. Yes, that may be, but in listening to the interrogation by Senator Kerrey, we couldn't seem to put our finger on who was meant to call the meeting where, as you say, this was going to be thoroughly vetted with everybody present. And indeed, unless I've missed something here, there seems to be confusion as to who gave the final okay. Down there in El Salvador they say, but I don't know whether they just act on their own down there. Of course, we've got to appreciate the position they came from, too.

Chairman SHELBY. Senator DeWine.

Senator DEWINE. Thank you, Mr. Chairman.

After listening to this testimony for the last several hours, I may be stating the obvious and I think I am stating the obvious, but the two people who know the most about this aren't here today, the station chief and Mr. Chidester. I would hope in the interest of fairness and the interest of information and trying to get out what the facts are, that this Committee would interview both of them at length on the record. I just don't see that we in any way—and that's not to say we will reach any conclusions even after that is done, but these are the two people who absolutely have the most knowledge. With all due respect to our panelists, and they have all testified very well, with one or possibly two exceptions, they're trying to reconstruct what happened. The ambassador was there and can tell us what he knew at the time, but everyone else is in a position of reconstruction. So I just would hope that we would be able at some point to hear from these two people who really know the most about it.

Chairman SHELBY. Senator, if you would yield, I'd like to respond to that if I could. Staff has tried to get those two people here. You're very right on what you say. I wish they were here today. But I'm going to convene the Committee and have a business session later and we're going to talk about this, and if we have to bring them here by subpoena, you know, we ought to consider that. Because those two are the two missing pieces.

Senator DEWINE. I appreciate that, Mr. Chairman.

Vice Chairman KERREY. Well, Mr. Chidester, in his testimony, said that he just was unavoidably unable to be here.

Senator DEWINE. And I'm not saying, Senator Kerrey and Mr. Chairman, I'm not in any way impugning anyone's integrity or that they wanted to testify or didn't. It's just a fact they're not here and it's very difficult, I think, for anybody to listen to this and try to figure out what in the world is going on.

Chairman SHELBY. So let's get them here.

Senator DEWINE. I think we should get them here. I appreciate that, Mr. Chairman.

Let me just make one statement that's already been made by every other Senator here. If the different branches of our armed services don't have this policy in effect, and they may already have it in effect today, I would hope they would put a policy in effect that when we have a U.S. serviceman or woman who is killed in circumstances such as this, that there be a formalized system and that there be somebody in that branch of the armed services, who

follows up and dogs this thing and stays in contact periodically with the families. I think families have a right to expect that and I think they have a right to expect that someone is looking at this every few months to ascertain if anything has happened. If it's nothing more than every year getting a call from the Army or the Navy or the Marines or whoever's involved, saying, we're sorry, we've got no new information, we just wanted to be in touch with you and tell you we're still working it, here's what the status of the situation is. I think that is the least the families could expect.

Ambassador Walker, I had the opportunity on several occasions in the 80's to be in El Salvador and I can certainly appreciate what you say about the horrible conditions there. And the danger that all our servicemen faced and the danger that everybody at the embassy faced as well. And so you have described it, I think, very accurately. I would like to recap with you and with the other witnesses as far as what you thought Andrade's culpability was.

Mr. Ambassador, my understanding of the notes that I have taken, and I want you to correct me if I'm wrong, but at that point in time you thought or it was described to you, your recollection is it was described to you that he was a, quote, "marginal participant." Is that the best way to describe what you thought or knew at the time?

Mr. WALKER. Yes. I was told that the polygraph examinations had indicated that he was at best a marginal participant. He was a member of the PRTC. He was a member of the leadership. He claimed he knew something about it, etc., but that he was not an actual participant in the shooting nor a principal planner.

Senator DEWINE. Thank you.

Several of other witnesses, and I would like for any of you to jump in here if you wish. I have described him, Andrade, as basically that you had evidence that pointed to him as the mastermind. I would like for each one of you to tell me what you base that on. If it is simply the IG report now, fine, tell me that. If it's something that the evidence you have over and above that, tell me that. You know, why do we get to the point where he is the mastermind. What is the summary of the evidence that shows he's the mastermind.

Mr. Hamilton?

Mr. HAMILTON. Senator, in the State Department's case it is reconstruction. It comes from the information provided by Rivas, I believe, who was one of the—he was the gunman who was sentenced to 25 years. He was the one, I think, that so characterized Andrade.

Senator DEWINE. Anything else?

Mr. HAMILTON. I think that's—in the Department the view of this matter today is principally informed by the judgment of the U.S. prosecutor, who's perhaps the one individual who has looked at all of the evidence.

Senator DEWINE. We'll go to Justice then.

Just give me the summary of what, you know—and let me just say, I don't find it to be inconsistent that you could come to the conclusion, that our government could come to the conclusion, professional prosecutors say, sorry, we don't have it, we can't take a case to court. However, here's what the evidence is. Some of it may

be admissible in a court, some of it may not, but we think this guy is clearly culpable. I don't have a problem with that in and of itself. I think you could reach a conclusion that you do not have enough to go to court but this guy is a no good SOB and we shouldn't cut him any breaks at all. I don't think those are inconsistent, frankly. It that's what the facts are and that's what the evidence is.

But I would ask—back to my question. What was his culpability and what do you base it on?

Mr. REYNOLDS. From the standpoint of the prosecutors, what we focused on was the available evidence against him and that was clearly short of what was necessary to prosecute.

Senator DEWINE. But what do you have, though?

Mr. REYNOLDS. As relates beyond that, what we were working with was what we were getting essentially from the CIA and their characterization of their information. And as long as they were characterizing to us that they believed that Andrade had a significant role and might be an intellectual author or a mastermind of the crime, our view was that that needed to be resolved before—

Senator DEWINE. Okay, I don't want to cut you short, my time is short. I want to make sure I understand what you're saying, though, Mr. Reynolds. You're saying that your department, and this is certainly acceptable and understandable. You don't have independent information. What you're doing is relying on a conclusion of the CIA. That's fine if that's what you're saying.

Mr. REYNOLDS. From the standpoint of the prosecution.

Senator DEWINE. Not the prosecution. But from the point of view of is this a guy who—we may not be able to prosecute, but is this a guy who was the intellectual mastermind or whatever term you want to use.

Mr. REYNOLDS. From the standpoint of the prosecutors, that's correct. The FBI has an intelligence function also, and Mr. Watson may have some independent judgment on behalf of the FBI as to the role of Mr. Andrade.

Senator DEWINE. Mr. Watson?

Mr. WATSON. Clearly I'll reflect Mr. Reynolds' comment that we drew the conclusion based upon CIA intelligence information and also information from the host government that he was in fact a member of the organization. So we drew that and in addition to the host government providing us information.

Senator DEWINE. Okay.

We're back to you, Mr. O'Neil.

Mr. O'NEIL. The information that we had—

Senator DEWINE. And you said this, part of this already. I just want you to recap for me so I make sure I understand.

Mr. O'NEIL. The information that we had was that Andrade was the commander of the PRTC Metropolitan Front in San Salvador. He admitted to that. We have the information of one of the shooters that—when they were picked up and taken to—before they were taken to the actual attack zone, that their unit commander stopped and had a private conversation with Mr. Andrade, and later told them that Mr. Andrade had provided information about the attack. And other sources told us as well that Mr. Andrade had been involved in the casing of the restaurant. He's also the person

who signed the communique several days later when the PRTC took credit for the attack.

Senator DEWINE. Okay.

All of that is pretty strong except the last one. I mean, that does not necessarily mean he had anything to do with it. I guess that's a question of judgment. And that's pretty much the summary, though?

Mr. O'NEIL. Yes, sir.

Senator DEWINE. Okay. Thank you.

One last question, if I could, Mr. Chairman. I am confused at the point in this whole chronology at what information Andrade supplied that had any impact on other prosecutions of this case. That's one question. And I'm also interested in what—if he supplied any information having to do with this case that led to anything, at what point in time did he supply it and how does that relate to the date of parole. This case. And I know you talked about other things. Did he do anything on this case? In other words, we've talked about three people being prosecuted. Did they result from him or is that—I mean, which came first here? I'm just confused with the chronology. Did he give us anything to help us on these cases?

Mr. HAMILTON. Senator, I don't think he did.

Senator DEWINE. Okay. Gave us other things but did nothing on these cases, is that right?

Mr. O'NEIL. He implicated three people who were all dead by the time that he gave us the information.

Senator DEWINE. That's convenient.

Thank you, Mr. Chairman.

Senator CHAFEE. Could I just, Mr. Chairman, ask one quick question?

Did I hear you say, Mr. O'Neil, that Andrade signed the release or whatever it was that said that the FMLN—

Mr. O'NEIL. The PRTC, the faction of the FMLN which took credit for the attack.

Senator CHAFEE. Claiming credit for these murders?

Mr. O'NEIL. That's right. Using his nom de guerre, yes.

Senator CHAFEE. Is that disputed in any way? I mean, this is the first I've heard of that. Did you say that earlier?

Mr. O'NEIL. I did.

Senator CHAFEE. I must have missed it then. I'm sorry.

Thank you.

Chairman SHELBY. I just have a few other questions. I know we've been going a while here. Going back to the parole request cable, when it was slugged—I believe Mr. Hamilton mentioned that, or Mr. Watson—when it's slugged, in other words it's sent out through the distribution channels it's given, that means it's to somebody's attention, is it not? Is that right Mr. Ambassador, Mr. Hamilton?

Mr. HAMILTON. Yes, sir. That's correct.

Chairman SHELBY. Have you reviewed this cable, the cable that went out to the station chief?

Mr. HAMILTON. I have. The Inspector General reviewed it rather more thoroughly.

Chairman SHELBY. Basically who was it slugged for or sent to?

Mr. HAMILTON. It was sent to the Department of State.

Chairman SHELBY. Okay, sent to the Department of State.

Mr. HAMILTON. With an information copy to the FBI?

Chairman SHELBY. Okay.

Mr. HAMILTON. And I think an information copy to the FBI but, although not slugged for the CIA, an information copy went to the CIA. Am I correct on this?

Chairman SHELBY. Is that correct Mr. O'Neil?

Mr. O'NEIL. Yes, sir, it did go to the CIA.

Chairman SHELBY. So you have this information saying basically don't bring this man into the United States, you know, that's the gist of it, and it's sent out to the Justice Department? Mr. Reynolds? No, it's sent by the Justice.

Mr. REYNOLDS. It's not sent to the Justice Department.

Chairman SHELBY. Okay, sent to FBI?

Mr. WATSON. That's correct.

Chairman SHELBY. It's sent to the State Department?

Mr. WALKER. Right.

Chairman SHELBY. It's sent to the CIA? Is that correct?

Mr. HAMILTON. Senator, staff informs me that the cable went action for the State Department and for the FBI action.

Chairman SHELBY. Mr. Ambassador, do you want to comment?

Mr. WATSON. No, that's not correct.

Chairman SHELBY. Let Mr. Watson comment and I'll let—

Mr. WATSON. My response to that was not an action item for the FBI. It was information sent over to us. The action was with State Department.

Chairman SHELBY. Mr. Ambassador?

Mr. WALKER. Sir, if you were talking about the cable that we sent from the embassy recommending parole, requesting parole—

Chairman SHELBY. No I'm talking about the cable—

Mr. WALKER. You're talking about the other cable—

Chairman SHELBY [continuing]. Setting out, was it December cable, whenever it was? Have you got that date on that?

Mr. HAMILTON. March.

Chairman SHELBY. You want to comment on that, Mr. Hamilton?

Mr. HAMILTON. If you're talking about the cable that requested the parole that was from March—

Chairman SHELBY. No, no, I'm not talking about that cable. I'm talking about the cable that—

Mr. WATSON. Which cable are you talking about, Senator Shelby?

Chairman SHELBY. I'm talking about the cable saying, don't bring this man—you know, this man's implicated in—

Mr. HAMILTON. The only such cable was the CIA—

Chairman SHELBY. It went to the CIA. Did it go anywhere else? Mr. O'Neil?

Mr. O'NEIL. No, sir. It went to our station in San Salvador.

Chairman SHELBY. And he basically ignored that cable, didn't he?

Mr. O'NEIL. He says not, sir.

Chairman SHELBY. Well, it was basically ignored, whether he ignored it or not. It was basically ignored.

Mr. O'NEIL. Certainly Ambassador Walker's testimony—

Chairman SHELBY. And that's about the only inference, Mr. Ambassador.

Mr. WALKER. The question is, did he show me that cable.

Chairman SHELBY. And you said he didn't.

Mr. WALKER. And he did not show me the cable that said the headquarters wanted nothing further to do with Mr. Andrade.

Chairman SHELBY. And had he shown you that cable, what would have been your reaction to that?

Mr. WALKER. It's hard to speculate. I would probably have gone over the issue one more time as to what was Mr. Andrade's role in the Zona Rosa massacre. We were not—Mr. Chidester and I were aware that the Department of Justice, from this meeting that had occurred when Rick was up in Washington, that the Department of Justice was in fact decidedly, you know, against a parole. What was not communicated to us was the fact that the Agency was unequivocally opposed to parole. We were dealing with their people in Salvador who were continuing to send Rick over to interview him and—

Chairman SHELBY. And Rick is?

Mr. WALKER. Mr. Chidester, I'm sorry.

Chairman SHELBY. He's one of your—

Mr. WALKER. He is a State Department Foreign Service Officer lawyer. He was continuing to go over and talk to Mr. Andrade. He was going over and saying, you know, money has been provided to your family, they are in the States. He was talking to him about further cooperation. I believe if I'm not mistaken that he delivered the ticket to him, etc. He was involved in this film that was made right up to the moment when Mr. Andrade was to get on the plane to leave for the United States. So his impression from his dealings with the Agency people in El Salvador obviously was that those people were not under instructions not to have anything to do with Mr. Andrade. He was proceeding on the assumption that these offers of assistance were based on the fact that the station wanted Mr. Andrade in the United States.

Chairman SHELBY. Is there, Mr. Reynolds, any basis today, 1997, that you know of in the Department of Justice to reconsider the potential for prosecuting Mr. Andrade and others under United States laws? For participating in these murders.

Mr. REYNOLDS. Well, first of all, we're not aware of any evidence that would change the evaluation that the case is legally insufficient to bring. And I might say legally insufficient by a significant margin.

As relates to whether this case could somehow be—if evidence were developed, brought at this time, our judgment is no, that the statute of limitations would bar that. Now as we noted in a letter to you, Senator, as we always do we try to consider every possible argument and we did come up with one potential argument to get around the statute of limitations, but it's our judgment that the law just doesn't support that theory.

Chairman SHELBY. You used the phrase, Mr. Reynolds, and I've heard it before and I know it's used a lot in law enforcement, when you deal with the devil for the greater good. In other words you deal with the unsavory people to try to get information to further your aims of law enforcement and justice. Is that right?

Mr. REYNOLDS. That is sometimes necessary.

Chairman SHELBY. I understand that.

Now, do you think dealing with someone who a lot of people thought was implicated, perhaps the intellectual author of these murders of our Marines and other citizens, dealing with them at all would be for the greater good? I can't see how you could justify it.

Mr. REYNOLDS. Senator, it's difficult for me to reach that judgment. There have been IG reports of which I have read some, but they are voluminous. I have not been through them all. I can simply say that typically one would seek to get someone who is lower in the hierarchy to move up the pyramid as opposed to getting someone who might be high on the pyramid to get to others below that person.

Chairman SHELBY. Do you gentlemen and the lady believe that people ought to be accountable somewhat for deeds like this, for bringing people into the United States by parole? In other words, can you say, well, there's a breakdown of information and so forth. But somebody's got to be accountable somewhere. It's disturbing to me and it's disturbing to other members on the Intelligence Committee, and I know and you do, too, it's disturbing to these families, with good reason, because not only have they been treated shabbily, no one's even basically let them know all along since their sons and brothers were murdered, what's going on, if anything.

Maybe they think, and rightfully so, does the government care, did they care. They've lost their brothers and sons but they haven't heard anything for years.

I have a number of questions regarding that for the record because this is a tragedy but I don't see how you can argue any way that these families have been treated shabbily. I don't know how you can get around it. And when Ms. Coven said that the parole request through the Department of Immigration and Naturalization is an extraordinary thing, you know, to jump the hurdles, to go around the red tape. It's not an ordinary way to gain entry into this country. She said that they maybe have four, five or six a year requests. Something broke down here and the American people deserve better, these families deserve better.

Senator Chafee, do you have anything else?

Senator CHAFEE. No, I'll echo that. I just think there are several breakdowns here and certainly one of them was nobody telling them what's going on. That's a very legitimate complaint. They weren't asking for much. All they asked for was a telephone call, or somebody that they could find out what's going on. I thought one of the most poignant things was the mother who testified she didn't know how her son died. Did he die there, did he die in a hospital, did he die on his way to the hospital. I think those are just elementary things that easily could have been told to her.

So we're really dealing with a whole series of missteps here and lack of communication, and I just hope that certainly on that last point that we've been making, that informing and keeping posted the families of those involved in situations like this has at least solved for the future.

Thank you.

Chairman SHELBY. Senator DeWine?

Senator DEWINE. Mr. Chairman, I do have one more question. I appreciate the Chair's indulgence.

This is for Mr. Reynolds. On January 6, 1997, the Chairman of the Committee wrote the Attorney General about the Zona Rosa investigation and urged the Department of Justice to reconsider the potential for prosecuting Mr. Andrade. One of the bases for prosecution that was raised in the Chairman's letter was a statute protecting certain officers and employees of the United States including, quote, "Any security officer of the Department of State or the Foreign Service," end quote. Violation of this statute was a capital offense at the time of the attack and thus was not subject to the 5 year statute of limitations that applied to other applicable statutes.

The department's response, dated February 13, 1997, concluded the statute did not apply to Marine guards acting as security officers for U.S. embassies. That letter supports this interpretation by noting that the Attorney General later in 1987 specifically added Marine guards by regulation, something that would not have been necessary, so the argument would be, if Marine guards were already covered by existing statutory language.

However, the regulation cited in a DOJ letter extends coverage of the statute to members of the U.S. military services who, quote, "Have been assigned to guard and protect property of the United States under the administration and control of a U.S. military service or the Department of Defense."

Now, I guess the logical question is, how can this apply to Marine guards since a U.S. Embassy is not under the administration and control of the U.S. military service or the Department of Defense?

Mr. REYNOLDS. My understanding from the research that was done into that is that we can make an argument, which we think is a sufficient argument, that these Marine guards were under the jurisdiction of both the State Department and the Department of Defense when they served in their function as embassy guards.

Senator DEWINE. Meaning what then? What does that mean?

Mr. REYNOLDS. Meaning that we believe that we could—let me take a step back.

Senator DEWINE. Sure.

Mr. REYNOLDS. In 1996, April 24, 1996, a statute was signed into law that provides protection to all Federal employees. So the issue that we're discussing now is no longer one that would be pertinent if a crime occurred after April 24 of last year. However, we believe that post-1987, when the regulation went into effect, we would have been able to reach Marine guards who were assaulted or killed either in the course of their duties or because of the exercise of their duties.

Senator DEWINE. Which would mean in this case what? Laymen's language then.

Mr. REYNOLDS. That had this occurred after the effective date of the regulation, which I believe was February 1987, that this would have been a capital offense and therefore there would be no statute of limitations.

Senator DEWINE. Well, I'm going to follow up with this further. I think it is questionable whether or not your interpretation is correct, but I'll follow up with that.

Thank you, Mr. Chairman.

Chairman SHELBY. Thank you.

This will conclude the hearing.

[Thereupon, at 1:08 p.m., the hearing was concluded.]

1985 ZONA ROSA TERRORIST ATTACK, SAN SALVADOR, EL SALVADOR

WEDNESDAY, JULY 30, 1997

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Select Committee met, pursuant to notice, at 2:05 o'clock p.m., in room SH-219, Hart Senate Office Building, the Honorable Richard Shelby, Chairman of the Committee, presiding.

Present: Senators Shelby, DeWine and Kerrey of Nebraska.

Also Present: Taylor Lawrence, Staff Director; Chris Straub, Minority Staff Director, and Kathleen McGhee, Chief Clerk.

Chairman SHELBY. The Committee will come to order.

I understand that the Vice Chairman, Senator Kerrey, will be here as soon as possible.

I just want to remind everybody, this is a closed hearing to protect the identity of a former station chief. It's not a classified hearing, but when we refer to the former station chief, we will address him as Bob, and not his real name. The station chief's appearance should not be described outside the hearing room, for reasons that you can understand.

We are here today to follow up on the hearing this Committee held on May 20th on the subject of the tragic Zona Rosa murders, the subsequent investigation, and the eventual parole into the United States of one of the suspected murderers.

Despite our very intensive questioning of witnesses from the CIA, the State Department, and other agencies during that hearing, a number of important questions remain unanswered.

As my colleagues will recall, on June 19, 1985, four U.S. Marine embassy guards, two American civilians, and six other people were brutally murdered by members of a Marxist guerrilla group, as they sat at a sidewalk cafe in the Zona Rosa district of San Salvador.

The Marines were not in uniform; they were not on duty; and they were not armed.

But Staff Sgt. Bobby Joe Dickson, Sergeant Thomas Taschner Handwork, Sgt. Patrick Robert Kwiatkowski, and Sgt. Gregory Howard Weber were Americans. And they were killed because they were Americans.

And because they were Americans, and because they died in service to their country, I was appalled, as so many Americans were, to learn that Pedro Antonio Andrade, the alleged mastermind of the Zona Rosa attack, was paroled into the United States—by the United States government—in June 1990. He was paroled after

being arrested by the Salvadoran government, and after being interrogated by U.S. investigators.

He was paroled after the U.S. government—or at least some parts of the U.S. government—had concluded that even though there was not enough admissible evidence to prosecute Andrade in the United States, he was probably responsible for the Zona Rosa murders.

The families.

Once again, we are proud that some of the family members of the slain Marines have been able to join with us. Mrs. Betty Malone, the mother of Bobby Joe Dickson, is here today from Northport, in my home state of Alabama.

Mrs. Brenda Whitt and Mrs. Beth Hildebrandt, Pat Kwiatkowski's sisters, join us from Wisconsin.

Mr. John Weber, Gregory Weber's father, is also with us. Gregory was from Cincinnati, Ohio.

Thomas Handwork was from Dayton, Ohio. His parents, John and Trudy Handwork, regret that they can not be with us today.

I would like to thank these family members, on behalf of the Intelligence Committee, for coming on what is, I know, another difficult and painful journey for you.

And once again, I want to especially thank Betty Malone, whose search for the truth about her son's death has been an inspiration to all of us.

Two of our four witnesses today were key participants in the interagency deliberations leading up to the Andrade parole, but did not testify at our earlier hearing. We expect their testimony will be critical to obtaining a clear understanding of the decision to grant Andrade a parole.

Mr. Richard Chidester was the Embassy Legal Officer from March 89 to June of 91. Mr. Chidester is now a private citizen. We appreciate his willingness to appear before the Committee to help us understand the events of 1989 to 1990.

Our second witness, whom we will identify only as "Bob" for security reasons, was the CIA Chief of Station in El Salvador from June 1989 to June 1991.

We hope these gentlemen will help us to resolve one of the most critical unanswered questions, namely: were State Department officials in El Salvador aware—had the CIA informed them?—that the CIA and Justice Department officials in Washington had concluded that Andrade was deeply involved in the Zona Rosa massacre, when they recommended that Andrade be paroled into the United States.

Our third witness is Mr. Ron Ward, an FBI agent who, in June of 1989, participated in the interrogation of Andrade after his arrest in EL Salvador. We hope he will provide us with his views, as a professional criminal investigator, on Andrade's role in the Zona Rosa killings.

We also have with us, and available to answer questions, the following officials:

Ambassador William Walker, who was Ambassador to EL Salvador and August of '88 to March of 1992, and who approved the parole request. Ambassador Walker testified at our earlier hearing.

Mr. Rich Cinquegrana, CIA Deputy Inspector General for Investigations.

Mr. Floyd Justice, Director of Support Programs for the Department of State Inspector General.

And Mr. Glenn Fine, Special Investigative Counsel with the Justice Department's Inspector General.

These witnesses participated in and are familiar with the results of the Agency Inspector General's investigations into Zona Rosa massacre, and the Andrade parole that were carried out last year at the request of this Committee.

And I thank all of you for appearing here today.

Mr. Chidester, we'll go with you first.

STATEMENT OF RICHARD CHIDESTER, FORMER LEGAL OFFICER, U.S. EMBASSY, SAN SALVADOR, EL SALVADOR

Mr. CHIDESTER. Thank you Senator.

My name is Richard John Chidester and from March of 1989 to June of 1991, I was assigned to the U.S. Embassy in San Salvador as the legal officer. My primary responsibilities included liaison to the supreme court, attorney general's office, and the several Salvadoran military police agencies. I shared responsibilities to represent U.S. interests to these institutions and press for resolution of long standing human rights cases, including the Zona Rosa case. I also was responsible for management of a U.S. sponsored project to develop a civilian criminal investigative unit, the SIU.

I will not attempt here to address each of the areas where allegations have been made concerning the handling of Pedro Antonio Andrade's request for parole into the United States back in 1990. If at any time you would like to hear my opinion on the conduct of the IG investigation of this issue, I would be glad to share my thoughts with you, but this is not the subject for today.

I believe that there are three key issues.

One. Was the Zona Rosa case important to the embassy, or as has been implied in some reports, was the sacrifice made by our Marines forgotten over time and did we come to believe that there were other investigations that took precedence over this case.

Two. It has been suggested that a deal was struck with Andrade. The allegation is that in exchange for his cooperation, we would grant him immunity from prosecution for his role in the Zona Rosa case, and relocate him to the United States.

And finally, it is alleged that I single handedly deceived the combined Washington bureaucracies of the CIA, Department of Justice, FBI, and apparently the Department of State as well, to secure Andrade's parole into the U.S.

My testimony will address these issues.

One. Was the Zona Rosa case important to us.

In 1989, when I was briefing in for my assignment to El Salvador, I spent several weeks in the Department coming up to speed on important human rights cases that the embassy was following. The Zona Rosa case was one of those cases. I was told that while it was an important case, there had been little movement in securing a conviction, and we were at a standstill.

When I arrived at post, the deputy chief of mission, Mr. David D'Louhy, who had taken a personal interest in pushing this and

other cases through the Salvadoran judiciary, told me he was particularly frustrated with the Zona Rosa case, and that he did not believe that we would get a verdict in the courts.

It is important here to understand that the Salvadoran judiciary was a particularly timid institution, and subject to intimidation from both extreme right and extreme left. Judges were killed for making the, quote, "wrong" decision. The ex-president of the supreme court, Francisco Guerrero, was killed by an assassin during the November 1989 offensive. I was very aware of the potential consequences when I asked a judge to push the Zona Rosa case or any case through the system.

El Salvador was a country at war, as we know, and the threat to anyone in an official capacity with U.S. government approval, 20 Uzi's to the president of the supreme court for his bodyguards, because he did not have adequate personal protection. It was in this climate that we pressured the supreme court for and finally obtained a conviction against the suspects who had been held in the Zona Rosa case since 1985. Did we interfere in the affairs of a foreign government and did we do so in the pursuit of justice? You bet, and I would do it again.

I must tell you that Ambassador Walker always supported our putting the maximum pressure on the Salvadoran judiciary. The president of the supreme court rightly felt that he was under tremendous pressure from the Ambassador.

So the short answer to the original question is that in spite of other pressing cases, the Zona Rosa case was always a priority for this Embassy. Was it more important than the murders of Pickett and Dawson, or the murders of the American labor advisors, or the Jesuit case? No, but neither was it less important.

Issue two. Was a deal cut with Andrade whereby we offered him immunity from prosecution in exchange for his cooperation.

I don't know what kind of immunity we could offer from the Embassy without the involvement of the Department of Justice. I never suggested that we offer immunity to Andrade. And in fact, it was just the opposite. I have always been of the opinion that if we ever discovered reliable information linking Andrade to these murders, that he should be prosecuted. These were the conditions under which he took two polygraph exams. And I understand he is still willing to take another polygraph exam about his involvement. I am frankly perplexed as to why no one has thought to ask him to take another exam if we question the results of the original test.

Our first priority with Andrade was to determine his involvement in the Zona Rosa case. I knew the allegations that he was involved in planning the murders of our Marines. These allegations formed the basis of the questions that he was asked during two polygraph exams. If there was a credible case against Andrade, then we were prepared to pursue the prosecution in El Salvador or the U.S.

The legal attache from Mexico City was involved in this case from our first meeting with Andrade up to the polygraph exams. It was our legal attache who originally questioned Andrade about the role of the Mexican Ambassador. If Andrade's word, confirmed through the polygraph, was good enough to deny the Ambassador's

visa, why is that same polygraph deemed unreliable concerning his involvement in the Zona Rosa. I guess the logic escapes me.

Let me offer this by way of an aside. When Andrade was first captured, we requested parole for, I believe, two of his children. His wife Connie already was a U.S. resident, as were several of his children. They could go to the U.S. at any time. It was decided to take Connie and the children to the U.S. where there were already family members, as a gesture that we, the U.S. government, would not stoop to using someone's family as leverage to coerce them to cooperate. That was the right decision. I accompanied Connie and the children to the States in November of 1989, returning the day before the start of the guerrilla offensive.

So the short answer is no deal was cut with Andrade for his cooperation. In blunt terms, the offer to him was cooperate or stay in prison. His leaving El Salvador was the natural consequence of his cooperation and our, certainly my belief was that he would be killed if he stayed in El Salvador. I still believe that his life was in jeopardy should he return to El Salvador.

And issue three. Did I deceive the Washington bureaucracy and secure Andrade's parole into the U.S. against the combined opposition of the CIA, Department of Justice, and the FBI.

When I was asked to work with the station on this case, I readily agreed. My interest in this case was from the law enforcement perspective. Had Andrade participated in the murders at the Zona Rosa, and if he did could we build a case against him. I have never heard anyone offer that we had conclusive evidence linking him to this case. No one from the Justice Department ever suggested we prosecute him in the U.S. Only after I made every effort to determine his role in the murders did our focus then change to the intelligence value Andrade represented. Even then we never forsook the potential of a criminal case against Andrade. We always kept our options open.

I knew the Department of Justice had some unresolved issues on their part. I thought by sending the cable in requesting his parole, the Department of Justice would have their opportunity to voice their opinion. It never occurred to me that the coordination with the other agencies in Washington, D.C., should have been conducted from Embassy San Salvador.

I was in contact, daily contact with the CIA, particularly in selecting a departure date for Andrade. That departure date was driven by the stations desire to make a video of a reformed guerrilla. After the video was completed, I was then told that CIA Headquarters had decided not to use the tape. I was never told there was opposition within the CIA or Department of Justice to Andrade's receiving a parole.

It's probably important to reiterate here, if I could, that Andrade was in the U.S. at the sufferance of the U.S. government. His parole could have been revoked at any time. So I guess I am tempted to ask that if my colleagues at the Department of Justice felt they had not been consulted in a timely manner on the parole request, why didn't they revoke the parole and have Andrade extradited.

I knew all the names and histories of each American who had been killed in El Salvador during the 10 years prior to my arrival. Let me assure the families who lost loved ones in El Salvador, their

sacrifices were not forgotten. They hung heavy over every decision and initiative we made during my service in El Salvador. The U.S. Embassy under Ambassador Walker's direction, sought to see that justice—yes, justice—was done. This was the right thing to do, and not only because it served our national interest.

That is why I have cooperated fully with this investigation, from the very beginning, including calls for an Inspector General investigation. This is why I called the State Inspector General investigation. That is why I called the State Inspector General, offering to cooperate, and why I repeatedly have called Intelligence committee staff, offering to discuss this case with them. I remain willing to talk with families and the Committee about the handling of the Zona Rosa case during my tenure in El Salvador.

The families deserve answers. The American people deserve answers. But if we made some decisions at the Embassy that this Committee or others now feel obliged to second guess in an apparent rush to create a scapegoat, then you risk perpetrating an injustice in the name of correcting one. I hope this is not the Committee's goal, although the same cannot be said of the Inspector General's investigation.

This may be the final tragedy of El Salvador, that a war-torn country can achieve reconciliation, but the United States continues to consume its own over these events. This does not reflect well upon the honor and the memory of those both living and deceased, who worked to build a better future for El Salvador. The Americans who died at the Zona Rosa were part of that effort.

Thank you, sir.

Chairman SHELBY. We'll next hear from, we'll call you Bob, the former station chief.

STATEMENT OF THE FORMER CENTRAL INTELLIGENCE AGENCY CHIEF OF STATION, SAN SALVADOR, EL SALVADOR

BOB. Mr. Chairman, I was the chief of station in El Salvador when Pedro Andrade was granted parole. I retired from the CIA December 31st, 1993, after serving 23 years in the clandestine services, which included 15 years in CIA stations overseas.

I arrived in San Salvador on the 21st of June, 1989, and served as chief of station until the 20th of June 1991. Although I had been stationed in Central America in the early 80's, this is the first time I was directly involved in Salvadoran affairs. At the time of the Zona Rosa killings, in 1985, I was assigned to a European station.

I understand that the Committee has called me here today to assist in clarifying whether I played a role in the parole to the United States of the former commander of the Urban Front of the Central American Revolutionary Workers Party, known by its Spanish acronym, PRTC, Petro Antonio Andrade Martinez, also known as Mario Gonzalez.

I welcome the opportunity to discuss my role in the parole matter and to review events with others who were assigned to the U.S. Embassy in San Salvador at that time.

First and foremost, I would like to say to the families of the murdered Marines, that I grieve for their loss, and wish to assure them that none of us who served in El Salvador during the violent 1980's

will forget the high price paid by a few in support of our government policies there.

Although we came under fire many times during our tour, we were not called upon to make the ultimate sacrifice. I did not have the privilege of knowing these young men personally, but during my 15 years of overseas service, I have met and worked with scores of fine Marines.

The September 1990 report by the Inspector General of the CIA documents some of the Agency's efforts to bring the PRTC perpetrators of the Zona Rosa killings to justice. The PRTC continued to be a threat and remained one of the station's principal targets during my tenure.

Following the capture of Andrade and during his interrogation by U.S. officials and subsequent debriefing by the Salvadoran national police, I and my staff worked very closely with the Embassy legal officer and with the Ambassador and his senior staff. We shared the same goals and objectives, and there were no disagreements on procedures. The Embassy and the Justice Department were directly responsible for investigating Andrade's involvement in the Zona Rosa killings, and the CIA station, working with the Salvadoran police officials, were charged with obtaining information on current plans and intentions of Andrade's terrorist organization, and most specifically any information indicating threats to U.S. persons, personnel and interests. The U.S. government's overriding consideration in dealing with Andrade was to determine the truth regarding his involvement in the killing of our Marines, and to assure that he could be prosecuted at a later date if new information came to light. We at the Embassy in San Salvador never proposed that Andrade be given unconditional amnesty or blanket immunity.

Now there appear to be different perceptions on two aspects of the Andrade case.

Did the station share with the Ambassador a cable from CIA Headquarters in January 1990 stating that Andrade was believed to have been more involved in the Zona Rosa killings than previously believed.

I was outside El Salvador from December 29th, 1989, until January 19th, 1990, and therefore was not at the station when the cable in question arrived. Nevertheless, I can assure the Committee that I and my staff routinely shared all information in this case with the Embassy legal officer, who was the only American officer in direct contact with Andrade. Although I cannot specifically remember discussing the conclusions in the cable with Ambassador Walker when I returned, since I shared not only intelligence information, but also important and pertinent operational messages with the Ambassador, I am convinced that I did. I wish to point out that the conclusion that Andrade played a larger role in the Zona Rosa operation than originally believed, was based on intelligence which the station did not have. The Embassy and station understanding of Andrade's involvement was based on his statements and polygraph results which indicated only a marginal role.

And number two, what role did the station play in the final decision in March '90 to formally request that Andrade be paroled into the United States.

The CIA's involvement in the parole process is well documented. The record shows that the CIA decided in late May 1989, shortly after Andrade's capture, not to request a parole under its special authorities. The CIA Headquarters advised the station to explore different options and said that it would discuss other avenues for parole or resettlement with the Department of Justice.

The possible parole for Andrade was discussed at several inter-agency meetings in Washington, some of which the Embassy legal officer attended. I was not informed, however, that the Embassy would and actually did submit a request for Andrade's parole at the time that it happened. In fact, although a parole finally was formally requested on March 27, 1990 by the Embassy's consular section, I did not learn of it until some days after the cable was sent. This Embassy cable was not coordinated with the station, and neither I nor my deputy chief remembers seeing it in draft prior to transmittal. Parole was granted by INS in late April 1990.

The CIA, and by extension, the station, had no interest in pressing the parole of Andrade to the U.S. in March of 1990. His intelligence value already had been exploited to the limit, and the CIA could not meet directly with him without tainting his future prosecution. Also, his propaganda—

Chairman SHELBY. Say that again. Go right over again what you just said.

BOB. His intelligence value already had been exploited to the limit. This is—we're talking about March now. He's been in their hands for six months. And the CIA could not meet directly with him without tainting his future—his future prosecution. The reason why I kept my officers away from him all along was to make sure that if there is new information and the Department of Justice said we can get the guy, that we would—the very involvement of the CIA would not taint that prosecution.

And also I might point out, his propaganda value once in the United States, would be zero. His value propaganda-wise was when he was there denouncing his own comrades.

As you may know, I was interviewed several times by CIA officers assigned by the Inspector general to investigate the events surrounding the 1985 Zona Rosa killings, and subsequent related events. And also appeared twice before a panel of investigators for State, Defense and Justice. I hope that my appearance at this hearing will assist in resolving any remaining questions and perceptual differences concerning the role of the station and the eventual parole of Andrade into the United States.

Thank you, sir.

Chairman SHELBY. Our third witness is Mr. Ron Ward, an FBI agent who in June of 1989 participate in the interrogation of Andrade after this arrest in El Salvador.

Mr. Ward.

STATEMENT OF RONALD D. WARD, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION

Mr. WARD. My name is Ronald E. Ward. I am a Special Agent of the FBI. My current assignment is in Las Vegas, Nevada.

From June of 1985 to July of 1991 I was assigned as Assistant Legal Attache at the U.S. Embassy in Mexico City. During most of

the time I was assigned in Mexico City I handled cases only in Mexico. All cases in Central America were handled by the Legal Attache in Panama City, Panama. Until June of 1989 I was never involved in the Zona Rosa investigation.

In June of 1989 the Panama City Legal Attache had relocated to Mexico City because of the war which had erupted in Panama. Personnel of the Mexico City Legal Attache office were being called upon to fill in and help out in Central America.

On or about June 3, 1989 I was informed that I was to travel to San Salvador to interview a subject in the Zona Rosa case who had been captured by the Salvadoran military. I was briefed on the case by Patrick Lang, the Legal Attache in Mexico City, who had previously been the Legal Attache in Panama City and had worked on the case extensively. Lang described the case as a criminal investigation and said I was to focus on obtaining information to be used as evidence or to further develop the criminal investigation. Andrade was considered to be one of the subjects in the case.

On June 6, 1989 I went to the National Police headquarters in San Salvador to interview Pedro Andrade Martinez. I was accompanied by Richard Chidester of the U.S. Embassy in San Salvador. I interviewed Andrade that day and on June 8, 1989 in the presence of Richard Chidester. On June 7, 1989 Chidester was unable to go with me and I interviewed Andrade by myself.

At the beginning of the interview on June 6 we informed Andrade that we had information that he was one of the primary figures who had planned the attack. He said that was not true. He said he wanted to talk to us to explain that he had played a minor role in the whole affair and he wanted to explain very clearly what he had done.

Andrade said many people thought he was deeply involved in planning the attack because normally his position would have dictated his involvement. He said many people did not realize that another person, Rogelio Martinez, who was at a higher level than Andrade, came in to San Salvador and took over leadership roles that Andrade had previously been performing.

In early June 1985, Martinez told Andrade that it was necessary to figure out some kind of action to respond to the capture of Nidia Diaz and others. He asked Andrade to make sure that some safe houses and a doctor or medical clinic were available in case somebody was injured in some kind of activity.

Andrade said it was easy to check on safe houses because the party always maintains some, and this did not require any action on his part. Andrade further stated that he was not able to establish any contact with a doctor or a medical clinic.

On the afternoon of June 19, Martinez told Andrade that a military action was planned against the Cheles, or white people. On June 20, 1985, Martinez advised Andrade that the incident which had occurred the night before had been planned and carried out by his people.

Andrade provided the names of everyone he knew who was involved in the operation.

After writing up the results of the interviews with Andrade, I had no direct involvement in handling the case.

I later became aware that discussions had taken place regarding the possibility of Andrade receiving a parole to live in the United States. My input was never solicited on that issue.

I recall seeing at least one copy of a communication containing information about Andrade's parole. I do not remember the details of the communication. It was given to me for information only, with no action required.

Thank you for the opportunity to address the Committee on this matter.

Chairman SHELBY. I thank all of you.

I want to pronounce your name right. Is it Chidester?

Mr. CHIDESTER. Chidester, sir.

Chairman SHELBY. Chidester; Chidester.

I want to thank you and Bob and also Mr. Ward for taking the time to come before the Committee.

Mr. Chidester, as the person with the most extensive personal involvement with the Andrade parole, you will, I hope, be able to clear up many of the questions that remain unanswered about this matter. We've asked the families to join us in this room today because there are just so many questions that perhaps you can answer for them.

Mr CHIDESTER. Sure.

Chairman SHELBY. Before we proceed, I would like to address the suggestion, Mr. Chidester, that you made in your testimony to the effect that the Committee is looking for a scapegoat. We're not. We're not looking for a scapegoat. This Committee's duty is ascertain the facts, identify the mistakes that were made, without regard for which agency or individual made them; establish accountability; and where appropriate, propose steps to ensure that mistakes like this will not occur again.

The Intelligence Committee has reviewed your actions and those of the State Department. We have also reviewed the actions of many others in the CIA and the Department of Justice, the FBI, the INS and the other agencies. If you feel that you have been made a scapegoat, then this is your chance to explain what you mean.

Mr. Chidester, we've reviewed the IG reports, as you know.

Mr. CHIDESTER. Sure.

Chairman SHELBY. And we've heard testimony on the events surrounding the Andrade parole. We've heard from just about everyone except you.

Please tell the Committee, if you would, in your own words, about the process by which Andrade received parole. You mentioned it earlier, What your assumptions were, the procedures you followed, and how you coordinated your actions with other agencies. Testimony that you were never informed of conclusive evidence linking Andrade to the Zona Rosa case—I believe that was your statement.

What evidence do you you hear—I am just going to go through this—

Mr. CHIDESTER. Uh-huh; sure.

Chairman SHELBY. What do you mean by conclusive? Strong enough? Conclusive. Would that be strong enough in your opinion to obtain a conviction in a U.S. court. Or strong enough to sustain

a common sense conclusion as to Andrade's guilt or innocence, and his suitability for parole. Two different things.

Mr. CHIDESTER. Uh-huh.

Chairman SHELBY. Were you aware of all the early evidence, that is, pre-dating your arrival in San Salvador, implicating Andrade?

Do you want to respond, Mr. Chidester?

Mr. CHIDESTER. Sure.

On the evidence side, I don't have exact memory of all the evidence that was there, but I did review what was available that was provided to us by the Station by the State Department. Those were the basis of the questions that we used for the polygraph exam with Andrade.

Again, I am not a criminal investigator. What I tried to do down there was to pull together, if there seemed to be a case, then we prosecuted them. I was particularly concerned with this case and the reason we got a conviction on this case against the three others, there was no due process, it was a question of pressuring that president of the Supreme Court to make a decision and to convict. And I remember very clearly sitting in his office and pushing him to do that. And it was because it was important to us. And we were asked several times, well, why do you care, why do you keep pushing. And sincerely, my belief, any time a U.S. citizen loses his life in a foreign county, and my responsibility then was to push that case as hard as I possibly could.

So I heard Bob say that there was other intelligence hat was not available to the Station that led to the conclusive evidence, or that led to the belief by the Department of Justice and the CIA that Andrade had been the intellectual author of these crimes. I guess I am not familiar with what that might be. I had available to me the information we used to prepare the questions that were used on the polygraph exam.

In terms of the process—the conclusive evidence, and what would I consider conclusive. Something that would allow us to push for a criminal prosecution. If there was no reason, if there was no possibility of prosecuting, I had no other role. It was my role to push something through either the Salvadoran judiciary, if we could, or with the U.S.—within the U.S. courts.

And as by way of an example, when the Salvadorans did not try—were delaying in prosecuting the three defendants that they had in their jails, we went to the President of the country and said either prosecute or they had—one of the perpetrators was one of the people actually at the site and actually had pulled the trigger, and we said give us that guy and we'll take him up to the United States and prosecute him up there. You either prosecute him down here or we'll take him up to the States. So tremendous pressure was put on them.

The President backed down and said no, we will make—we will resolve this in country. But we weren't letting up pressure on them at any point. It was always my idea to push for prosecution.

And on the parole, I didn't come to the—to me it wasn't a question of do I determine whether he's guilty or innocent or if there's reasonable doubt—

Chairman SHELBY. And by "parole," will you explain the word, what the term means in the parlance of the time? When you parole him into the U.S., what would you do?

Mr. CHIDESTER. I was not in the consular section, but I consulted with our consul general Nick Ruccitti and asked him recently—and it was not—as he explained it to me, it was not humanitarian parole, it was at the sufferance of the U.S. government.

Chairman SHELBY. But parole would mean admit him to the U.S.

Mr. CHIDESTER. You have no status. It means he has no status in the U.S.

Chairman SHELBY. Okay; uh-huh.

Mr. CHIDESTER. So he could be extradited at any point. If the U.S. government, for any reason, decided they didn't want him here, they could throw him out. And so he had no legal rights in the United States. He was not here on a visa. He was in at the sufferance of the U.S. government.

And when I spoke with Mr. Ruccitti, he conveyed to me that they had discussed with INS specifically we wanted to preserve our options to prosecute; we wanted to preserve our options if we decided some day we didn't want him any longer in the U.S., he could be extradited. And they felt that parole was the most appropriate way to do that.

The process—I was up in the United States, I was up in the United States for one meeting, interagency meeting. It's my recollection that the Department of Justice's concern was that they didn't have all the information. And we discussed, here are the accusations. What can we do to determine Andrade's involvement. And they said they wanted to make sure they had all the information. They wanted to make sure that the—that Langley was providing them with all the intelligence. And as I understood it, Justice was going to discuss with the CIA what they might have had in their files.

Now I was never informed by the Department of Justice what their conclusions were. But I expected that that coordination would take place through our desk, our Salvador desk at the Department of State, and through the Director for Central American Operations.

When I was at the meeting, I think it was in October, there was a desk officer with us. In fact, I didn't call that meeting. I was up here visiting my family—my family was up in Virginia and I would get back every three or four months to see them. And as I would come back, then they would set up briefings, I would come up to the Hill, I would talk to anybody that our desk officer had said, yeah, I think they'd like to talk to you.

So my main coordination point was always through our desk and through Central American Affairs. When I went to this meeting, there was a Pat Butannis that was with me, and they reported to Pete Romero, the Director of Central American Operations. And it was—I relied on them to pursue the appropriate process and coordination here in Washington.

They had several meetings that I did not participate in. And it has been alleged that I did not send—slug the cables specifically for our legal department. What I normally did out of the legal office was we had a format our secretary would follow, and the legal of-

fice in the State Department was concerned with the special investigative unit. They had coordinated with ICITAP, which was involved in the Development of this what we had hoped would become a civilian criminal investigative unit. And that's where we routinely sent cables that came out of my office. And that was the secretary who would put them down there.

When we put up the parole cable, it was not put on there, not because I said don't put it on there, but through omission I didn't—I didn't tell them to put it on there. It didn't occur to me. I probably should have. But it was a normal routine cable that went up.

I looked back to the original request for parole and that cable that was sent up on which we—that parole was granted for the children, that cable initiated these initial interagency meetings. Now, I haven't seen those cables, but I can only assume it was the same slug lines that were used on that that were used on the subsequent cables, because they would have come out of our consular section. And the purpose of those cables was to initiate the activity for interagency collaboration.

I had never served in Washington; I had always served overseas. I can tell you how an embassy works overseas, but I am certainly probably not the best expert to tell you how interagency cooperation is maintained.

If I had come out of those meetings feeling that it was my responsibility to coordinate, I would have raised an objection and said, no, it's probably better that that happens up here in Washington.

Chairman SHELBY. Were you ever involved in denying a parole rather than recommending a parole into the United States of some people like this? Do you recall?

Mr. CHIDESTER. Denying a parole?

Chairman SHELBY. Yeah.

Mr. CHIDESTER. Actually, well, there was a case. My responsibilities, if I—just to answer your question without trying to get off track, but I pursued the criminal investigations and tried to find the leads into the Romero assassination. I was pushing on the Pickett and Dawson case. We were pushing on several. We developed a—Alvero Seravilla, who was up in Miami and had been intimately involved in the planning of the murder Monsignor Romero that you might remember. Servilla had been subject to a prosecution and then it failed because Salvadoran courts came in and issued some edict that said there was no basis for doing that.

But Seravilla at one point decided that he would be willing to talk. Now, no one in our Justice Department would talk to him, so I flew up from Salvador and talked to Seravilla. His stay in the United States was due to come to an end in June of that year, which was supposed to be a couple of months, and I spoke to him and tried to get a more complete briefing of his role and what were the circumstances leading to the murder of Monsignor Romero. And he provided that to me.

Now we used the threat of deporting him to get him to cooperate.

Chairman SHELBY. After the cable was sent, did you help walk the parole request through the INS, Department of Justice bureaucracy, and if so, why, and at whose behest? If you didn't, did

you know who did? Somebody walked it through. Did you walk it through?

Mr. CHIDESTER. I would not have known how to.

Chairman, SHELBY. Okay.

Mr. CHIDESTER. It—I would have relied on our—on the consular section to do that, and consular affairs in the U.S.

Chairman SHELBY. Okay.

Senator DeWine.

Senator DEWINE. Mr. Chairman, thank you very much.

Let me first thank you for holding these hearings. I raised some questions, as you did, at the last hearing, and it seemed to me that we really couldn't get a true understanding of what was going on without some additional players here, and you have seen that they are here, and I want to thank you very much. As you know, Mr. Chairman, there were two Ohioans who were killed in this horrible tragedy, and so I have more than a passing interest.

Chairman SHELBY. Mr. Weber's here today.

Senator DEWINE. I know he is.

Let me also apologize for coming in late. For some reason I had this on my schedule at 2:30. And so we have the possibility that some of my questions, gentlemen, are going to be redundant, and I would ask your indulgence and everyone else and the Chair's indulgence. I will try to cut through some of this if I can, and maybe ask question that by their nature may not be redundant, but certainly that possibility is there.

I would like to ask the three of you—we'll just go in any order you want, we can start with you, Mr. Ward, if you want to—to recap your assessment of the culpability of Andrade, from what you know or knew at the time? Summary, bottom line, what you would advise policymakers about, you know, what's this guy's culpability, what do we know, what don't we know.

Mr. WARD. I think the best way that I could summarize my assessment of that is pretty much included in the reports that I wrote, which is based on my interviews with him, and what he said about his own involvement. And that was, yes, he knew that something was being planned, that he didn't know the details of it until after it had actually happened. That he had been given an assignment by someone else to try to line up safehouses, medical facilities. And to that degree, yes, I would say that he participated. But beyond that, I wouldn't be able to say.

Senator DEWINE. Your assessment at the time was that that was accurate?

Mr. WARD. Yes.

Senator DEWINE. I mean, what he reported to you, what he told you, you basically—I'm not questioning that. I am just—

Mr. WARD. Yes, sir.

Senator DeWine [continuing]. Trying to get your state of mind at the time, what you knew. That's all.

Mr. WARD. Yes. I had not worked extensively on this case prior to that. So most of what I knew about the case came from briefings that I received just prior to doing the interview and mostly from the interviews themselves with Mr. Andrade.

Senator DEWINE. Good.

Chief of Station?

BOB. Yes sir. We—at the time he was captured we had very little on him other than who he was, his position, because of the status of station files. We were down to two hours of burn, and so we kept no records. We went immediately back—and this was actually before I arrived, but the chief of station at the time went back and requested information, immediate information on who this guy was and what his involvement was.

Senator DEWINE. Excuse me. Remind me, you arrived when?

BOB. I arrived on the 19th of June and he was captured the month before.

Senator DEWINE. Okay.

BOB. I think.

So the initial processing was done by my predecessor. I would have done the same thing. You immediately ask for traces, what we call traces, and that's a background on who this guy is. And the traces that arrived and that I read when I got to post were very—they stated the same thing that Mr. Ward just said, that he was possibly involved because of his position because it was his command, his group of terrorists that conducted the operation, and it was assumed that he would be knowledgeable and possibly directly involved.

But the information that actually came initially from our files in Washington was very inconclusive as to exactly what role he played. And so we were—down at the embassy we were—our obligation was to try to fill in. And as I said in my opening statement, which I am sorry you didn't hear, sir, all of our energies went towards trying to determine what role this guy really played. And to go farther, the determination of the AUSA, the Assistant U.S. Attorney, and a few days later confirmation of our own legal people in Washington, that in fact, he played more of a role than we had assumed that he had up until January.

This was a determination that was made based upon intelligence that we never got. They never sent us the raw information. We were just told that the AUSA determined that he was probably—probably guilty and that there was a possible direct link into the planning. It was never really defined, sir. And one of the things that we pressed, that Rick and the Ambassador and I pressed very hard, was, "please," we asked Washington, "get all the information together. We don't have the information down here." (What information we had led us to conclude that he wasn't directly involved.) "If he is, please make that determination and let us know."

And that the—excuse me, I sort of amplified a little more than I wanted to.

Senator DEWINE. That's fine.

BOB. We were frustrated, and my involvement with my headquarters and through the legal officer and the ambassador was to try to get a definition in Washington. And it was basically up to the U.S. Attorney who was involved to make the determination.

Senator DEWINE. Is it my understanding from your testimony that you were given—what you had is sort of a conclusion, but you were interested in how they got to the conclusion, is that—

BOB. That's partly true, sir. What I got was—

Senator DEWINE. You said we were told probably guilty, but never defined.

BOB. That was the way—that's the way the cable came. I don't remember exactly.

Senator DEWINE. Right; I understand that.

Chairman SHELBY. Could you go over that again, Senator DeWine, with him? Let him answer that question again just for the record. You said probably guilty?

BOB. Yeah, that he was—he was probably—I've got to try to remember—probably more involved than the Station and the Embassy realized to date, and that the evidence indicated that he most likely, or some kind of qualified, played a role up to actual planning of the attack.

Senator DEWINE. And that information was coming to you from whom?

BOB. From my people in Washington based upon meetings in Washington between the U.S. Attorney—Assistant Attorney who was following the case, Mr. Murtaugh, and our own legal people in the Office of General Counsel, in Washington.

Senator DEWINE. But did I misspeak—and you corrected me, because you're—I wasn't there. I mean, I got the impression that you didn't know what the background was that led to that conclusion. I mean, you had some information which indicated less culpability than would lead to that conclusion, is that—

BOB. Yeah, that's correct sir.

What we had—we had the intelligence that we developed ourselves in Salvador, and that was from the polygraphs, that was from Mr. Ward's interviews, Mr. Chidester's interviews, the interrogation by the National Police who arrested him. And all of these people determined, to one degree or another, the National Police finally came to us and said we've got to let him go, we don't have anything on him. And they interrogated him for days and days and days.

Our own polygraphs—or the polygraphs from the special unit, in essence cleared him. So we're looking at this information, sir, and then we're looking at information based upon an analysis of reporting that we never saw at post, that the U.S. Attorney believed that he was more culpable and probably was the intellectual author of the massacre.

And we're sitting down there saying, okay, that's his opinion, but what is the truth, I guess is what you—

Senator DEWINE. Did you then ever resolve that in your mind, how you fill that hole in the—

BOB. No, sir, I never did until—and as a matter of fact, I left the post questioning whether the determination of how guilty he was was really the correct one that we were talking about.

Senator DEWINE. Say that again? I'm sorry. You say that again.

BOB. I left the post, even after the parole—

Senator DEWINE. Right.

BOB [continuing]. And when I finally left, until I got to Washington, I had questions in my mind as to how guilty he was and actually is, in actually masterminding—planning and masterminding the massacre. I think the question still is open.

However, when I came to Washington, I talked to the young officer who held the Marine in his arms when the Marine died, who was on the scene at the time and he was in Salvador for a year

after this happened, and he told me some information that he remembered developing that obviously, I would assume, is part of the information that was available to Washington, that he was personally convinced that Andrade was—was the intellectual author of the whole thing.

This was way after the fact, and it was based upon a very emotional reaction by this fine officer who was on the scene. And talking to him, I said to myself, well, maybe he really is guilty and we should continue to take a hard look at his guilt.

Senator DEWINE. My red light is on. Mr. Chidester, I want to give you a chance to respond to that, too.

Mr. CHIDESTER. Sure.

I don't think I ever had a good feeling. We were taking every step possible to try to determine the level of his guilt. With the information that I had, I thought we took every step possible. Even after I left the State Department in June of '91, when the Truth Commission was formed, and I was called and they said can you get us Andrade, and I said I'll get him for you, and I brought—went out, came to Washington, and had him come down and escort him over to speak with Bergenthal. And it was the basis of that, you know, on the Truth Commission. I guess my feeling was if the truth was Rogelio Martinez was involved, and he had come down, that should be the focus of—that should be the guy we're trying to get.

And in my consultation with people at post and what they knew about the FMLN, I had also understood that there had been an order that was sent out that approved targeting U.S. military personnel. And that then the different units that were in San Salvador put together options for going after various targets, and the PRTC went after our Marines.

So I felt that Andrade was probably not the ultimate intellectual author of this. I know what he said about Rogelio Martinez, plus, as you can see in the Truth Commission report, they reiterate that there was a general order that came out of the FMLN high command ordering them to go after U.S. targets.

Senator DEWINE. So you—to try to get a little bit more specific, though—

Mr. CHIDESTER. Sure.

Senator DEWINE. You put him, at that point in time, below the category of—on a scale of 1 to 10 of culpability, 10, I suppose, would be someone, you know, masterminded the Zona Rosa slayings is what the CIA lawyers at some point concluded—you put him below that culpability.

Mr. CHIDESTER. I guess if you are—he admitted he had participated, so I guess if you participated, you know, you're culpable. And I—that's why we never precluded the prosecution in the United States, if information came available. I didn't have that information. I was at a dead end as to where I could take this any further.

But providing the parole was in no means of saying—there was no immunity associated with that. I knew what he said, but did I trust him? No, I didn't trust him. You know, he was in a position where he was going to try to make—you know, minimize his role. But I didn't know how else we could try to discern the reality of it.

Senator DEWINE. My time is up.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Kerrey.

Vice Chairman KERREY. Mr. Chidester, you say in your prepared testimony that the Committee may feel, quote, "obliged to second guess," or, quote, "create a scapegoat," quote. That's in your testimony. I wasn't here.

Mr. CHIDESTER. Yes, sir.

Vice Chairman KERREY. But I understand you read your testimony.

Mr. CHIDESTER. Yes, sir.

Vice Chairman KERREY. And its review of how Pedro Andrade obtained a visa.

Why do you feel that we're searching for scapegoats?

Mr. CHIDESTER. Well, I guess that's more of a feeling when I look at the State Department IG report, and I'm the only one that they singled out for having exercised extremely poor judgment. And yet they were very anonymous when they say there may have been others at the Department that were responsible for coordination, but we don't know who they are because their memories fail them. I feel that I have sought out, through staff on this Committee and everywhere else to try to pursue this case, even when I was no longer with the U.S. government. So I feel that I am the only one who's been singled out in any of those IG reports, and I am the only one who has been pointed to and said that they would censure me if I were still with the State Department. And I feel, yes, that that Inspector General was very unfair.

Vice Chairman KERREY. Well, I appreciate that, because your testimony references the Committees, okay.

Mr. CHIDESTER. Okay. I apologize, I'm not to direct it towards any of the individuals on this Committee, but—

Vice Chairman KERREY. So you don't think it—in general, if a U.S. citizen is murdered and the person believed to be responsible for the murder is given a visa by the U.S. Embassy, you think it is a legitimate thing for a Congressional Committee to investigate?

Mr. CHIDESTER. I always cooperated with all of our Congressional people who came down, and I think it's definitely legitimate. I feel my actions were fully justified, and what I did was in the best interests of the U.S. government, and pushing a difficult case—not only this one, but several ones involving other U.S. citizens that were murdered.

Vice Chairman KERREY. Again, using your own testimony you say—

Mr. CHIDESTER. Yes.

Vice Chairman KERREY [continuing]. With the United States, quote, "continues to consume its own," end of quote, while El Salvador, quote, "can achieve reconciliation," end of quote, because this Committee feels, quote, "obliged to second guess," end of quote, the decisions of the Embassy San Salvador.

I mean, do you feel like this Committee is second guessing a decision that was ever made in the Embassy? I mean—

Mr. CHIDESTER. I believe that the Inspectors General don't, in their reports—their reports do not reflect a good understanding of

the relationship between the Embassy and the State Department and who had what responsibilities.

You know, I was pushing as hard as I could down there, seven days a week, and to be singled out in the Inspector General's report, I take great umbrage at.

Vice Chairman KERREY. Do you think that Pedro Andrade should have been given a parole visa?

Mr. CHIDESTER. He was given a parole, not a visa, sir. And a parole meant that he could—he was in the United States at the sufferance of the U.S. government and could be extradited at any time.

Vice Chairman KERREY. A visa to get in, do you think he should have been given a visa to get in the United States?

Mr. CHIDESTER. No, sir.

Vice Chairman KERREY. And do you believe he deserves to remain in the United States today?

Mr. CHIDESTER. I believe—my concern is that if he was sent back to El Salvador, he would be killed. I think that would be wrong. Whether he stays in the United States—you know, if there is other information that has come to light that says he was responsible as the intellectual author of these crimes, then I would push for a prosecution. If that wasn't possible, then I would support an extradition, but to a third country.

Vice Chairman KERREY. So, well, I mean, I will stipulate here that I don't agree with your analysis there.

Mr. CHIDESTER. Okay.

Vice Chairman KERREY. I mean, I don't myself find myself saying that, gee, if somebody who we believe murdered U.S. citizens that ought to be concerned about his safety if he is going back to the country of origin here. I mean, I—

Mr. CHIDESTER. Well—

Vice Chairman KERREY. You also say in your testimony, you have another statement where you say it is decided to take Connie and the children to the United States. I gather Connie is Pedro Andrade's wife?

Mr. CHIDESTER. Right.

Vice Chairman KERREY. I understand that some of us on the Committee, I and the Committee have some concern when I hear that kind of testimony. It seems to indicate that you had gotten quite close to this individual and the family, I mean, you are referring by first name here in your own testimony today. Do you want to make a comment on that? I mean, is that—

Mr. CHIDESTER. They continue to call me. I took them up to the States. I didn't feel she was particularly involved in any of the circumstances and with small children—

Vice Chairman KERREY. You made the decision, in short, in this case?

Mr. CHIDESTER. To take them up to the States?

Vice Chairman KERREY. Yeah.

Mr. CHIDESTER. No. We asked for a parole and it was an inter-agency meeting that decided that they would grant that for them. I think she, if I am correct—

Vice Chairman KERREY. Well, what was the basis of the decision then?

Mr. CHIDESTER. The basis, if I remember correctly, was that we would take the family out of El Salvador because several of them were U.S. residents, and that the whole condition was that the U.S. government wouldn't play with someone's family to coerce their cooperation.

Vice Chairman KERREY. Well, why do you think that having their family stay in their own country is an indication—

Mr. CHIDESTER. Several of them—

Vice Chairman KERREY [continuing]. We are using them as leverage to coerce him to cooperate.

Mr. CHIDESTER. They weren't staying in El Salvador. In fact, it was my understanding that the family was in the hands of the FMLN and they were using them to try to keep Pedro from cooperating. So it was trying to get them back to El Salvador, trying to take them out of harms way, that was our initial efforts.

So they were in the hands of the FMLN.

Vice Chairman KERRY. Again, in your statement right now, I just alert you to this, when you reference Mr. Andrade by Pedro, it causes me to conclude, and you have to tell me if this is true or not, that you have gotten quite close to this individual.

Mr. CHIDESTER. No, sir. I don't consider him by any means a friend of mine at all. He is someone I was asked to work with the Embassy as the principal point of contact, to get him to cooperate, and that was the extent of it. And trying to get him to cooperate was the purpose of why I was there.

Vice Chairman KERREY. Well, why wouldn't Andrade have concluded that our bringing his family to him was an indication that we were willing actually to use his family as a tool to manipulate his behavior?

Mr. CHIDESTER. Bringing his family to El Salvador?

Vice Chairman KERREY. No. Bringing his family here.

Mr. CHIDESTER. Several of them were U.S. residents. I can't remember whether his wife was a U.S. resident or not. But several of them were U.S. residents. I believe, you know, she was a U.S. resident. It was a question of several of the children. And when they were brought back to El Salvador they were put in a safehouse for their protection.

Vice Chairman KERREY. In your testimony you say again, quote, you "accompanied Connie and the children to the States in November of 1989," end of quote.

Mr. CHIDESTER. Uh-huh.

Vice Chairman KERREY. During your tour there at Embassy San Salvador, how many other families did you accompany from El Salvador to the United States?

Mr. CHIDESTER. We didn't have that many situations, so it would have been none. But I did travel to Miami several times to brief witnesses in other criminal investigations. So I did travel.

Vice Chairman KERREY. Was it considered routine for the Embassy legal officer to accompany Salvadoran citizens to the United States?

Mr. CHIDESTER. I was asked to do that.

Vice Chairman KERREY. You were asked by whom?

Mr. CHIDESTER. It was part of our discussions at the Embassy to get them into the country, so as to accompany them to the States. If I could put them on a plane I would not have done it.

Vice Chairman KERREY. You said you were asked. Who asked you?

Mr. CHIDESTER. I can't remember exactly who asked. It was part of our internal discussions. I certainly would have—

Vice Chairman KERREY. Do you feel it was somebody else's decision other than your own, is that what you're saying?

Mr. CHIDESTER. It was certainly not my—I did not offer to say let me take them to the States, sir.

Vice Chairman KERREY. What was so unusual about these circumstances that caused you to accompany Mr. Andrade's wife and children to the United States?

Mr. CHIDESTER. I guess what we were trying to do was he had been captured. It was a question of trying to, one, determine his culpability in this criminal investigation, and two, his intelligence value. So we were cooperating closely with the station on what our strategy should be and that's when the issue came up, well, his wife and children, several of them are U.S. residents, they want to go to the States, does this make sense.

So we sent a cable back up to Washington and that was the subject of an interagency meeting when they decided yes, to bring them up. It wasn't my decision.

Vice Chairman KERREY. Well, did your personal interest in Mr. Andrade's wife and children traveling to the United States, did that influence any of Mr. Andrade's actions?

Mr. CHIDESTER. I understand that he cooperated fully after that.

Vice Chairman KERREY. So you think that the effort to accompany her and the children had an impact, it was worth the effort? Is that your judgment today?

Mr. CHIDESTER. I wasn't personally involved in debriefing him on intelligence matters. My sole purpose was to get him to cooperate. I guess I would defer to others as to the value of the intelligence he provided.

Vice Chairman KERREY. Again, it seems to me that that is an indication you are actually—the intent here is to use his wife and children to manipulate his behavior.

Mr. CHIDESTER. The intent was to take them out of the equation. We were trying to determine where they are being held and there were several—there was some information that they had been taken up to Mexico, that they were being held by the FMLN. And when they were brought back to El Salvador, they were put into a safehouse for their protection.

And she certainly felt under some—that she was being threatened.

Vice Chairman KERREY. Let me say, sir, that it does seem to me that this Committee is quite within its jurisdiction to try to determine why an individual that had murdered Americans or been connected to the murder of Americans, suspected at the very least—

Mr. CHIDESTER. Suspected, yes.

Vice Chairman KERREY [continuing]. Was allowed to leave El Salvador and come to the United States. I mean, that seems perfectly legitimate.

Mr. CHIDESTER. Yes.

Vice Chairman KERRY. And I do not think that the IG's report singled you out. And I hope that you understand—personally I don't think the IG report singles you out, and you obviously do. The IG is not this Committee, and the Committee is not scapegoating and the Committee is not attempting to devour our own here, and you know, I think it's worth noting—it's worth me noting, at least—

Mr. CHIDESTER. Sure.

Vice Chairman KERRY [continuing]. That let's presume that the IG's report is 100% accurate, and though you may not think it's accurate, let's presume that's my conclusion.

Mr. CHIDESTER. Okay.

Vice Chairman KERRY. I don't necessarily conclude that the rest of your life was full of mistakes so that your service to this country wasn't worthwhile. I mean, I've made plenty of mistakes as well. This is a pretty serious one in my—somebody made a pretty serious mistake, in my judgment.

Mr. CHIDESTER. Uh-huh.

Vice Chairman KERRY. And we're trying to find out who, why, in order to be able to make certain we don't do it again.

Mr. CHIDESTER. Right. I understand that, sir.

Vice Chairman KERRY. Thank you.

Chairman SHELBY. I want to get back to the chief of station.

On January 3rd, 1990, CIA Headquarters sent a cable to San Salvador Station concluding that Andrade was the probable mastermind of the Zona Rosa attack. You, sir, were not in San Salvador at that time.

BOB. That's correct. I was on leave.

Chairman SHELBY. In your testimony, however, you admit that you do not know whether the station, in your absence, or after your return, shared that cable or its contents with the Ambassador or the legal officer. You believe this information was shared based on certain assumptions about the way the station did business, but you don't know.

In its response for the record from our earlier hearing, the CIA states, and I'll quote, "that no evidence has been found to indicate that CIA personnel informed the Ambassador or the legal officer in San Salvador," your Office of General Counsel's conclusion, "concerning Andrade's involvement in the attack."

It looks to me, sir, like this information was never passed on to the Ambassador or to the legal officer.

Given the high profile of the Andrade case and the fact that this cable contradicted previous station assumptions about Andrade's role, don't you think there would be some record, perhaps, or some positive recollection by someone of having passed this information to the people who clearly needed to know it?

BOB. Yes, sir, it is surprising that there isn't anything on the record specifically saying that I discussed this with the Ambassador or that my deputy discussed it with the legal officer. It sure would make it a lot easier right now.

However—

Chairman SHELBY. If you assume the information was not shared, just assume, why wasn't this information shared with the

Ambassador and the legal officer? If we assume that. I'm not saying it wasn't.

BOB. I do not assume that, sir.

Chairman SHELBY. You're saying basically that this information was shared with the legal officer and the Ambassador?

BOB. Yes, sir, I believe that it was. The actual—the cable, the wording, word for word, here, read this, probably not, sir. But the implication that there—particularly the AUSA who was key to the entire process of what we were going to eventually be allowed to do with Andrade, in gaining his cooperation to get intelligence and eventually what would happen to Andrade himself, was the Assistant U.S. Attorney. And the fact that he determined that he was probably—that Andrade was probably guilty was of major importance to the entire way that we were approaching the Andrade case, and most certainly would have been shared.

Chairman SHELBY. Prior to the January 3rd cable, you told the Committee, both the station and the embassy believed that Andrade's role had only been marginal. If the embassy was never informed of the conclusions contained in the cable, why would the embassy change its assessment?

BOB. Another very good question, sir. But I am confident that the embassy was advised of the feeling in Washington among several principal players, important players, that Andrade played a major role.

Chairman SHELBY. Who were these players, just for the record?

BOB. Just for the record, sir, the Assistant U.S. Attorney, Mr. Murtaugh—

Chairman SHELBY. That's right.

BOB [continuing]. Was the one that sat down with information that was provided from us and from others—other sources—

Chairman SHELBY. He was concerned, was he not?

BOB. And he was very concerned. And I found out after the fact, by reading some of these reports and some of the interviews, that he was adamantly against parole all along, and this was not—I did not know this at the time that I was in San Salvador. I knew that we were having a very hard time getting a determination from the Justice Department as to what position they would eventually take. But no one, until this cable came down, said that this is the problem and this is what we have. And that is why I am convinced that that must have been shared with the Embassy, sir.

Chairman SHELBY. Well, when you say it must have been shared, would you have been the one to share it?

BOB. If I were there, yes, sir, I would probably have gone down immediately and tried to see the ambassador. But I wasn't there and so I—

Chairman SHELBY. Okay.

BOB. I'm sorry.

Chairman SHELBY. You're just basing it on past experiences and what happens?

BOB. Yes, sir. And my deputy at the time was a very experienced officer that worked very closely with Rick and the Ambassador, and was a professional and would not sit on information like that, sir.

Chairman SHELBY. Ambassador Walker, do you want to come up to the table, if you would, sir? He's sitting right behind you and I wanted you to have a chance to comment on this.

We thank you for joining us, sir, again.

Do you want to comment on this, sir?

Ambassador WALKER. On that particular point, sir?

Chairman SHELBY. Yes, sir.

Were you informed?

STATEMENT OF WILLIAM WALKER, FORMER UNITED STATES AMBASSADOR TO EL SALVADOR

Ambassador WALKER. No, I was not, sir. As I testified at the first hearing—

Chairman SHELBY. I know.

Ambassador WALKER [continuing]. I did not hear that the station was adamantly opposed to Mr. Andrade's—

Chairman SHELBY. And had you been informed, would that be strong news? I mean, that would be strong information, would it not?

Ambassador WALKER. It certainly would have. I totally agree with what Bob and Rick Chidester describe as our understanding of what the quality of the evidence concerning Mr. Andrade was at the time parole was granted. If that came in early January, that would have been a very strong indicator in another direction.

Chairman SHELBY. Bob, yes, sir, you go ahead.

BOB. Yes, I would just like to correct a misinterpretation possibly. The Station was not against the parole, or the Station did not buy onto this. What I am saying is that the cable that came down indicating that the AUSA felt this way. I believe would have been shared, at least with Rick. But I can't testify that it was because I wasn't directly involved.

But this does not imply that the Station suddenly became—you know, changed our mind and were against the parole, sir.

Thank you.

Chairman SHELBY. Sir, you say that the Station did not have access to the intelligence that led the CIA and Justice lawyers to conclude that Andrade was more than marginally involved in the attack.

Why not?

In other words, if you take into account that the embassy and the Station were limiting the amount of classified information on hand due to war-like conditions in San Salvador, wasn't this information critical to the ability of the embassy and the station to do their jobs? Who made the decisions as to what information would or would not be shared with the station?

BOB. Well, I think this was—this goes back to a fundamental point that I think Mr. Chidester made on the role of the embassy and those in the embassy in a war situation like we were in, and the professionals in Washington that support this effort. I think the decision as to what detail has to be shared with the—to directly address your question on intelligence matters, should be—the raw intelligence should be sent and what should not is a question that is very difficult to answer.

And I suppose my professional answer should be that if the experts in Washington decided, based upon a lot more information than we had, that this was the case, we should have accepted it. So——

Chairman SHELBY. We've heard different views as to who had an interest in paroling Andrade. On the one hand, the CIA was the prime beneficiary of the intelligence Andrade provided. The CIA first raised the issue of parole. The CIA used Andrade for a propaganda film. The CIA paid for his family's resettlement and other expenses. And the CIA paid for his plane ticket.

On the other hand, the State Department processed the parole request without adequate coordination with the CIA or other agencies.

In a response for the record, the CIA makes the somewhat disingenuous argument, I believe, that because, and I'll quote, "because Embassy personnel were responsible for the request, those personnel had an interest in paroling him in the United States," end quote.

I think one could just as easily conclude that since the CIA did all the things I just mentioned, the CIA had an interest in paroling Andrade, too.

Ambassador Walker, do you want to comment on that?

Ambassador WALKER. I totally agree with your analysis, Senator. Could I say one word?

Chairman SHELBY. Yes, sir.

Ambassador WALKER. Just—you know, I gave my testimony here on May 20th. I stick by that testimony. I find it a little ironic that I am sitting here next to these two gentlemen to my left. I wanted to say something about the two of them. They are certainly the two—two of the key players who were down on my country team in El Salvador and participated in the whole saga of Pedro Andrade.

And I think it is important for you to understand, coming from me, the Ambassador who was head of that mission, that I consider both of these fellows to my left, to have been very, very fine officers. Bob, the station chief, is among the very best station chiefs I have worked with. He mentions 26 years service with the Agency. I now have 36 years with the State Department. I have served in seven or eight embassies, I have inspected a whole bunch. And I have worked with a lot of station chiefs. Bob was among the best. He was very open with me. I think he sincerely believes that the information was passed to me. My recollection is that it was not passed to me, but I don't fault Bob for that.

On the other hand, Rick, to my immediate left, I recruited him to come to El Salvador. I had served with him in two previous posts. Both of these gentlemen were prepared to take on the very toughest assignments I could give them. Both of them put themselves daily in harms way, much as our Marines had put themselves in harms way.

I find it ironic that these are the two guys sort of on the grill, being sort of asked why their recollections of events differ, vary.

My questions have to do mostly with what happened up here, when the parole request cable came in. There are very set, standard operating procedures that were supposed to take place when a

cable like that, which we learned in the May 20th hearings were very rare occasions. We heard that it was only, I think it was 8 to 10 times a year such a cable would come in. And yet everybody up in Washington claims that it was just a routine cable so they didn't pay much attention to it.

Chairman SHELBY. But it wasn't routine at all, was it?

Ambassador WALKER. Not routine at all. As both of these gentlemen have described and as I would describe this, this was a very serious case that we paid a lot of attention to, trying to get convictions, trying to find out what the wealth of the evidence was and what it said about Mr. Andrade's participation.

My questions, in terms of the inspection report, have to do with why were they not able to find out, if they really were great inspectors, you know, who up here was responsible for moving the cable along, who cleared on the cable that came down telling us we had permission to grant the parole, who recommended to the INS that they go ahead and grant this parole—these sort of questions. And I did not see that in the inspection report.

So I, too, join in Mr. Chidester's criticism of the inspection process. I'm sure all the inspectors were fine inspectors trying to do the damndest to get to the bottom of this, but I think they did miss one of the more important aspects of the whole thing. What happened in Washington, why did coordination, cooperation, that was supposed to take place among the various agencies, not occur. Who specifically should have been involved, etc. Who should have made a written record of what they did or did not do. That is what is missing.

Chairman SHELBY. But if Washington—Mr. Ambassador, but if Washington sent this cable and it was a very important, not a routine cable, then it was then incumbent on someone in San Salvador to act on that cable, inform you and others, is that correct? Or am I wrong?

Ambassador WALKER. Yes. As Bob said, and as I have just said, I agree with his saying that on most things, he and his deputy and other members of his station tried to keep me informed on most matters. For some reason, which I cannot fathom the reason for, he did not tell me or the station did not tell me that headquarters was in possession of more information than we apparently had at embassy San Salvador.

Chairman SHELBY. Senator Kerrey, I believe you have a question.

Vice Chairman KERREY. Well, I mean, the trouble, Mr. Ambassador, is on the 5th—in the IG's report is the statement that on the 5th of October '89, there is an interagency meeting with the legal officer, and a decision made at that time that Andrade not be paroled in the United States unless it can be shown that he was not involved in the Zona Rosa murders unless further interagency discussions occur.

And then when the cable comes up on the 27th of March 1990, the Embassy sends a cable to the State Department requesting Andrade's parole. It goes to the visa office and the office responsible for Salvadoran affairs. Informational copies of the cable requesting the parole are sent to CIA and FBI, but not to the attention of Justice prosecutors, not to the attention of State Depart-

ment's legal office, not to the attention of CIA's legal office. And none of these three offices who were involved in the interagency discussion are informed.

And so it leaves the impression, at least, that an attempt is being made to get this visa without—you know, sort of manipulating the process, in order to get the visa. You understand why that impression—

Mr. CHIDESTER. I understand that impression.

Vice Chairman KERREY. You understand why that impression is being left.

Ambassador WALKER. I certainly understand the impression, sir. I just think it's the wrong impression.

Vice Chairman KERREY. Well, how is it the wrong impression? You tell me—where am I—where do we—why—you're saying that the interagency discussion on October 5 didn't leave you, Mr. Chidester, with the understanding, that no parole is given unless a further interagency discussion is given, and secondly—and I apologize to the Senator from Ohio; we hit a point here and—

Senator DEWINE. No, that's fine.

Vice Chairman KERREY. And secondly, perhaps while we wait until he gets—let the Senator from Ohio jump in here and do his round, but I want to come back to this and find out first, was that not your understanding from that meeting, and secondly, why not send a copy of this cable to the legal offices that are the ones that have to make a determination—that were involved with the evaluation of Andrade?

Mr. CHIDESTER. Well, the initial meeting, the October meeting, as I understand it, was pulled together as a result of our ARACEN people. When I came up, I had not been aware that there was interagency collaboration on this issue. They pulled it together and they informed me, Rick, we ant you to come to this meeting.

So my belief had been—and I still think it's appropriate—that ARACEN was the one that was responsible for pulling off that interagency coordination. And they did get the cable. They got that cable. They were informed about it.

Vice Chairman KERREY. DOJ?

Mr. CHIDESTER. Sorry?

Vice Chairman KERREY. Who was that—

Mr. CHIDESTER. ARACEN within the State Department—

Ambassador WALKER. The Central American—

Mr. CHIDESTER. The Central American office of the—

Vice Chairman KERREY. Well, this is longer than I wanted to go on this. I want to yield to the Senator from Ohio. It's his turn and I'll come back on my round.

Chairman. SHELBY. Senator DeWine, go ahead.

Senator DEWINE. I think it would be helpful—and I'll take my time, it doesn't matter—just continue on explaining. I mean, you've got the question. I mean, make it easy for us to understand.

Mr. CHIDESTER. When we sent the cable up to the State Department, it went to the Salvador desk, it went to the Director of Central American Affairs—

Senator DEWINE. And this cable is which cable? I want to make sure I understand.

Mr. CHIDESTER. This is the one for Andrade, recommending him for parole. And when—my recollection out of the October meeting was that the Department of Justice wanted to make sure that there wasn't more information that was out there; that they wanted to make sure we had all the information that was relevant to identifying Andrade's role in the Zona Rosa case.

Now, I guess a question that has come up to my mind is if the Department of Justice felt strongly that Andrade was involved, was the informed to CEN to our Salvador desk. Our normal communication comes through the State Department Salvadoran desk. And it's a little odd that it would come through the station in that way. So I don't know if our Salvadoran desk officer or the Director for Central American Affairs was informed.

When I went to that interagency meeting, there was a Salvador desk officer with me. It was by belief that any coordination would come from Washington in our Central American Affairs office.

And when we went through the polygraph exam and sent this up and said here's our belief, here's our conclusion, and we believe, based on this, that his role was not as the principal intellectual author, that would have been the appropriate time to come back to us and said, there's more information. To this day, I have not seen what that other information is. I don't know how I can be held responsible for making a determination if I am not fully informed.

Senator DEWINE. This may be a very basic and simple question, but I don't understand it. But who has—as all this unfolds, who has the most information? It sounds to me as if you're saying that the Department of Justice has got a handle on more of the information that is flowing to them than anybody else. Is that what you're telling us? Is that your conclusion, your understanding of the facts? Any of the witnesses.

Mr. CHIDESTER. Actually, listening to what Bob said about the conclusion of the Assistant U.S. Attorney, that he had additional information that led him to the conclusion that Andrade was the intellectual author, I would have liked to have known about that. But I guess—

Senator DEWINE. I'm trying to tell where—you know, we're looking at some pretty key players here, key departments. How does the Department of Justice get more information than you all have?

Mr. CHIDESTER. Sir, if I may—

Senator DEWINE. Maybe you don't know the answer, but—

BOB. No, I don't know the answer specifically, but I do know that the final determination for a possible parole for Andrade rested, in my understanding, with the Justice Department, and specifically in the individual of Murtaugh who was the Assistant U.S. Attorney who was following this case.

And so he requested that CIA pull all the information that it had on this entire matter and provide him with all of the information that the CIA had available. And I assume that he did the same thing with other—with the FBI and with State Department or what have you.

Senator DEWINE. So he's pulling out of Washington, obviously, as well as pulling out of down in El Salvador.

BOB. Excuse me. I am talking about pulling it out of Washington, sir, from my own Headquarters.

Senator DEWINE. Right.

BOB. And so consequently, it was—I mean, he was the—he made himself the possessor of as much intelligence as he could so he could make a valid determination in his own mind of whether a parole should be given to this person or not.

Mr. CHIDESTER. I'm sorry, could I make a comment?

Senator DEWINE. Sure.

Mr. CHIDESTER. There was a previous question, Senator Kerrey, you had about did I accompany other people up to the States.

Vice Chairman KERREY. Uh-huh.

Mr. CHIDESTER. I did. And there was a witness to the Zona Rosa murder that the Department of Justice identified, asked me to go out and to find out where that person was, and not only accompany that witness, but his mother and his other family, brought them up to Washington, DC. So I did that at the expressed request of the Department of Justice. So there was—there was that other time.

Chairman SHELBY. Did you, Bob, personally, or the CIA institutionally have an interest in paroling Andrade?

BOB. Initially we had an interest in working some kind of an agreement that was acceptable to Andrade so that he would cooperate and provide critical intelligence that was possibly critical to the lives of Americans in Salvador at the time. So one of the demands that he initially made when he was captured was a parole—and as a matter of fact, he demanded immunity, he demanded amnesty. He also demanded protection for—or asked for protection for his family.

The only possible thing at the time that we could possibly negotiate with was the protection of his family. And so I was looking at the family—

Chairman SHELBY. But that's short of parole for himself.

BOB. Yes, sir. There was no—to the best of my knowledge and recollection, no one ever promised him parole into the United States in the early days because none of us had the power to do that. We couldn't grant the parole from Salvador, and we certainly didn't have Washington on board yet.

Chairman SHELBY. Did you recommend parole?

BOB. Initially I recommended that parole be explored, the possibility of—

Chairman SHELBY. So in other words—okay, you recommended that parole be explored for Andrade.

BOB. Yes, sir.

Chairman SHELBY. Knowing what you knew about Andrade, what you've testified.

BOB. Right. And my communication with Washington, I think, was always, and on the record, sir, as qualified, if he is not directly involved and is not subject to U.S. prosecution, then I would recommend that a parole possibility be explored.

Chairman SHELBY. Did you communicate these views to the Ambassador or to the legal officer?

BOB. Yes, sir. We—I think we were all—we were all together on this, sir, I believe. I don't mean to speak for my—

Chairman SHELBY. Does it bother any of you, the three of you, or four of you, you know, Mr. Ward included, that you have some evidence, maybe it's not conclusive, that is, beyond a reasonable doubt and to moral certainty, but some evidence, that indicates that Mr. Andrade is involved in the Zona Rosa case—could he have been the mastermind, did he know about it beforehand, whatever—if he was involved in it at all where the American Marines were killed, unarmed and so forth, and you'd still think about paroling him or granting him entry into the United States?

BOB. Yes, sir.

Chairman SHELBY. I mean, that's incomprehensible to us.

BOB. Excuse me, Mr. Chairman, but I believe the Ambassador, in his testimony, gave some excellent ideas as to how we were looking at this. The Salvadorans were about to let this guy go. They determined that he wasn't guilty, and they were going to free him. The only way that we could possibly ever get our hands on him would be to have him in the United States—

Chairman SHELBY. But was that your real motive to get him, grant him entry into the United States? Obviously it wasn't to prosecute him, because he was never prosecuted.

BOB. I did not control that decision, sir.

Chairman SHELBY. Did you recommend that if he be granted parole or entry into the United States that you get him there where you'd be subject to our courts and so forth?

BOB. Yes, sir, and that's in writing.

Chairman SHELBY. Was that in the cables and everything?

BOB. Yes, sir.

Chairman SHELBY. Okay.

BOB. Yes, sir.

Chairman SHELBY. Mr. Ambassador, do you want to comment on that?

Ambassador WALKER. Yeah. I think I'd like to add to what Bob just said. I think you really have to look at the overall situation the Embassy was facing in El Salvador at the time this was being considered.

Chairman SHELBY. In other words, put everything in context?

Ambassador WALKER. Yeah. There was a war going on. There were thousands of people being killed. 77,000 according to the best estimates is how many were killed in that war. My top priority in terms of my service in El Salvador, according to the letter of instructions I got from the President of the United States, was to try to bring about a negotiated end to that war and to the violence.

When Mr. Andrade was captured and started cooperating on the basis of promises that were made to him, either about his family or later about himself, we were looking for as much intel information as we could into how the FMLN was doing what it was doing. As a result of Mr. Andrade's capture, a great deal was learned about the PRTC, which we would not have otherwise learned if we had not dealt with Mr. Andrade as an intelligence source. The PRTC was pretty well dismantled.

There were other fish to fry, is what I am saying, and you have to take that into consideration when you are talking about anything like this.

I thought it was rather ironic at the May 20th hearing when that afternoon the Washington Post had an article in it about an Arab terrorist who seems to have been involved in our—in the bombing of the Marine barracks—the barracks in Saudi Arabia, and the article in the Times was saying that he was up in Canada and we were negotiating to bring him into the United States, even though he had been a participant in that event, to try and find out what he knew about Arab terrorism targeting our forces in the Middle East.

So we're doing—you know, occasionally you have to deal with the Devil to achieve such things as intelligence breakthroughs, and that's what we were dealing with with Mr. Andrade.

Chairman SHELBY. We understand that to some extent, but some lines you don't cross. And what do you say to some of the families that are seated behind you, Mr. Ambassador, today, when they've heard this testimony, and they're thinking, gosh, what has our government done, why would they grant entry into our country, of people that would be involved or might have been involved or there is a presumption they were involved in the killing of their sons and their brothers?

Ambassador WALKER. I guess I would try to explain to them—I cannot imagine they would have wanted the war in El Salvador to go on for another day if it didn't have to. And Mr. Andrade did cooperate to the extent, and we got some intelligence that brought the end of that war a bit closer.

I certainly understand their grief, I certainly understand their anger. The things that we heard at the May 20th hearings about how they were not informed about what had happened to their loved ones, they were not—communication was not kept with them about how the case was advancing, I certainly understand all of that. I think there are any number of explanations and rationales you would try to give to the families to try to explain why some people, like the fellow sitting to my left, were doing what they thought was best to bring that damned war to an end.

That was U.S. policy. I think that was the right policy to pursue. That was certainly what we were pursuing with Mr. Andrade as well as with everything else we were doing down there, under extremely, extremely difficult conditions.

Chairman SHELBY. In written responses—

Ambassador WALKER. I would also add the argument that Mr. Chidester just gave you and that Bob as referred to which was that there was no chance that this man was going to be prosecuted or held in detention in El Salvador. The only chance of prosecution was if he was in our custody, and that meant in the United States. So that was an added dimension of bringing him into the United States under parole status.

Chairman SHELBY. In written response to the Committee's questions, the Department of Justice stated, and I'll quote, "Under the pattern of parole requests and evaluations in place in 1990, the INS would routinely approve the parole request of another Federal agency," in this case the State Department, "where the alien had cooperated in an investigation, unless there was offsetting adverse information provided along with the request, or available contemporaneously."

In a response to this Committee from the State Department, they said, and I want to read this, and I'll put it all into the record, this is a letter from the Department of State, Barbara Larkin Assistant Secretary, to this Committee, June the 25th 97, and I'll read this, the pertinent part. "The humanitarian parole request" on this case, "was transmitted from the State Department to the INS under a routine cover letter signed by the then-Associate Director for Visa Services. This cover letter stated that the request had been reviewed by the Department of State and was considered to be within the appropriate guidelines established for such cases. It did not express or reflect an opinion on the part of the signer as to the merits of the parole request."

[The material referred to follows:]

UNITED STATES DEPARTMENT OF STATE,
Washington, DC, June 25, 1997.

Hon. RICHARD C. SHELBY,
Chairman, Select Committee on Intelligence,
U.S. Senate.

DEAR MR. CHAIRMAN: During the Committee's May 20 hearing on the 1985 Zona Rosa murders you asked Phyllis Coven, Director for International Affairs at the Immigration and Naturalization Service (INS), who had signed the humanitarian parole request for Pedro Andrade and questioned who was accountable and responsible for the request. As this pertains to actions taken by the State Department, we are responding on INS' behalf.

The humanitarian parole request was transmitted from the State Department to INS under a routine cover letter signed by the then-Associate Director for Visa Services. This cover letter stated that the request had been reviewed by the Department of State and was considered to be within the appropriate guidelines established for such cases. It did not express or reflect an opinion on the part of the signer as to the merits of the parole request.

The reports of the Inspectors General (IG) of the Departments of State and Justice examined in comprehensive detail the failures of coordination and communication that led to the incomplete review of Andrade's parole request. Those accountable and responsible for the failure of communication and lack of coordination are identified in the State IG's report. That report did not find that the Associate Director for Visa Services had any responsibility for those failures. The State Department IG found that the Visa Office had not acted improperly in its routine transmission of the parole request to INS. The reports were comprehensive, and speak for themselves. Given these circumstances, we do not believe it would be appropriate to focus further attention on this particular individual. As always, however, the Department stands ready to cooperate in all appropriate ways with the Committee in its review of this matter.

We hope this information is helpful to you. If we may be of further assistance, please do not hesitate to contact us.

Sincerely,

BARBARA LARKIN,
Assistant Secretary, Legislative Affairs.

Chairman SHELBY. Now, something's wrong here, you know. We all know this. We're trying to get to the bottom of it to try to make sure it doesn't happen again. We're sorry that it happened.

My question basically is if the Justice Department was not included on the cable request for the parole, or others who had adverse information, how could they provide it to the INS? And Mr. Chidester, you were sluggish on the parole request, right? And by sluggish, tell the families what that means.

Mr. CHIDESTER. That means you are on the cable that would be to the attention of.

Chairman SHELBY. To the attention of you. In other words, you were sluggish or it was earmarked to your attention on the parole request, right?

Mr. CHIDESTER. I guess I'm—the parole request?

Chairman SHELBY. Uh-huh. You were sluggish on the parole request—that's my understanding.

Mr. CHIDESTER. Well, if we sent it out—

Chairman SHELBY. Okay, that's what I—okay, you sent it out.

Mr. CHIDESTER. If we sent it out I wouldn't—

Chairman SHELBY. You determined the distribution list for the message.

Mr. CHIDESTER. That would have been—that would have come out of the consular section of what would have been the appropriate procedure for coordination up in Washington. So I did not say this one, this one, and this one, it should go to these people.

Chairman SHELBY. But wouldn't you think of a situation like this, where there's an investigation going on, and had been, that the Justice Department should have been included, who had problems with this case from the beginning, had voiced problems with this case? Shouldn't they have been included?

Mr. CHIDESTER. In hindsight, you're right. I should have put it down. But it was my belief at the time that coordination would have been—that effort would have been—would have been taken by our State Department at ARACEN.

Chairman SHELBY. If you were trying to walk it through easily, you would have ignored the Justice Department. I'm not saying you did. I am just asking the question. You know, if you've got the Justice Department with concerns here about Andrade, and bringing him in the United States, it looks to me like that would be the first copy you would earmark something to.

Mr. CHIDESTER. And certainly if I had been on—

Chairman SHELBY. And not exclude them.

Mr. CHIDESTER. Well, certainly if I had been—if the Department of Justice had sent their cable down to us, informing them of those concerns that resulted from that October meeting, it would have been a higher priority at that point. I think there—there is supposed to have been some interagency collaboration going on, and it's—I guess I'm at a loss to understand why they would not have sent us their cable with their conclusions.

Chairman SHELBY. I want to—Bob, let me ask you this. I thought it was an evasive response to the Committee. The CIA ducks the question of why the CIA station paid for Andrade's ticket despite the fact that the station had been informed of the revised conclusions regarding Andrade's involvement in the Zona Rosa. The response also states that there is, quote, "No information indicating that you approved the purchase of the ticket, but on the contrary, it appears that the ticket was paid for as a routine matter by the case officer with only minimal involvement or oversight by the deputy chief of station."

My question is this. Why did the station pay for the ticket? Was the case officer aware of the revised assessment of Andrade? Was the deputy COS? If so, why did they approve the purchase of the ticket? And if they were not aware, why not?

BOB. I'll try to answer this as briefly as possible.

Chairman SHELBY. Okay.

BOB. Our program with the national police included assistance to cover costs of certain operational activities that the police under-

took in the counterterrorism field, and Andrade certainly fell into that.

We had a regular budget in which we reimbursed the national police for costs—certain costs. And the Andrade case, right from the beginning, fell within these parameters and we advised the national police that any costs involved with interrogation and the imprisonment of Andrade, Would be art of our program and would be reimbursed. That's the first basic thing.

The second thing, you asked about the case officer being aware. Of course, we were all aware inside the station of the complexities of the case, and the fact that this was an unresolved involvement, and Andrade was not a nice person. And he was imprisoned and we were trying to get information out of him. The case officer knew that much.

Chairman SHELBY. If he knew that much, he knew he was not a nice person, he knew there was some controversy about him. Why bring him to the United States.

BOB. Well, it wasn't his decision, sir. I might remind the Chairman that the parole had already been granted at this time, and this was the end of our commitment to the national police to cover the cost of Andrade's imprisonment. And I don't ever remember specifically—it wasn't meant to be sort of a subterfuge or weaseling answer. I don't remember ever specifically authorizing that, because I never saw it as an individual item.

Chairman SHELBY. Okay.

BOB. It came through my deputy's accounting responsibilities after the fact, and it came out of funds which our case officer routinely disbursed. It was \$300, I think, which compared with some of the other costs that we undertook, was a small amount.

Sure, in retrospect now, maybe someone should have taken a look at that. But it just happened. And it was after the parole was granted, so it was the end of our obligation to the national police.

Mr. CHIDESTER. Senator?

Chairman SHELBY. You go ahead, sir.

Mr. CHIDESTER. One of the things that has come up during this discussion is that there is additional information that the Justice Department, based on additional information that we didn't have access to, came to a conclusion about Andrade's role in the Zona Rosa case. I would argue that it that decision was made, it shouldn't have been in the context of the parole request. I would have liked to have had that information as, okay ow, there's how we pursue a prosecution against him. And if I had been privy to it, my approach would have been let's take now, if you believe this strongly, how do we resolve this? How do we take him and prosecute him either here in Salvador or in the States.

Chairman SHELBY. Or send him back first, I hope.

Mr. Ward, again, how strong was the evidence, in your view? Was it strong enough to support a common sense conclusion that Andrade was involved and should therefore have been denied parole? Do you want to comment on that again?

Mr. WARD. Well, as I said before, there was, by his own admission, an indication that he was—

Chairman SHELBY. Absolutely.

Mr. WARD [continuing]. Involved to a certain degree.

I was never in a position where it was expected that I should say whether or not he should be given a parole. I never thought about it until this came up. And so in hindsight, probably he's not a good idea, but I don't know what I would have thought at the time.

Chairman SHELBY. Mr. Chidester, in your testimony, you state that you were in daily contact with the CIA in, quote, "selecting a departure date" for Andrade. I want to ask these questions.

Why was the specific date of Andrade's departure of such significance to you, who were the Embassy's legal officer? Was there a sense of urgency or pressure on the CIA or that you, by contacting the CIA often regarding this?

Mr. CHIDESTER. It was a question of they were doing the filming at that point. I was working with a person that we had hired who understood Salvadoran issues better than I, named Lionel Gomez. They were pursuing it. I wanted to get it over with. It was diverting us from a lot of other issues that we were following, including the Jesuit case. So the question of the—

Chairman SHELBY. Something bothered me then.

Mr. CHIDESTER. Yeah.

Chairman SHELBY. You wanted to get it over with. In other words, you just wanted to clear your desk of it and move it on, is that what you're saying?

Mr. CHIDESTER. No.

Chairman SHELBY. Something this important?

Mr. CHIDESTER. In terms of doing the video, to me, being involved with trying to get him to cooperate and do a video was not a high priority for me. I was asked to do that in terms of here's what we'd like him to do as the final thing. So I did that. But making the video in and of itself was not high on my list of priorities.

Chairman SHELBY. Did you daily have—did you have daily contact with the CIA, implying that the Department of State's official position on the importance and urgency of getting Andrade out of El Salvador?

Mr. CHIDESTER. I'm sorry?

Chairman SHELBY. Did you have—were you in daily contact with them saying, gosh, we've got to move this, you know, we've got to move him?

Mr. CHIDESTER. I don't recall specifically.

Chairman SHELBY. Could you have?

Mr. CHIDESTER. It was a question of how long is it going to take.

Chairman SHELBY. Yeah.

Mr. CHIDESTER. How much time do you need to make this video.

Chairman SHELBY. In other words, urgency.

Mr. CHIDESTER. Yeah, how long do you need to do this video.

Chairman SHELBY. How was the chief of station to interpret your daily contact on a routine matter concerning the department date of a Salvadoran like this?

Mr. CHIDESTER. It wasn't always with Bob.

Chairman SHELBY. I know.

Mr. CHIDESTER. It was with several people. And we had country team meetings. You know, there was several of those issues.

Chairman SHELBY. Let me ask you this. Have you been involved in—have you testified in any way in the deportation hearing of Mr. Andrade?

Mr. CHIDESTER. No, I have not.

Chairman SHELBY. Have you been subpoenaed or anything?

Mr. CHIDESTER. No, I have not.

Chairman SHELBY. Okay. Have you kept up with that, in Federal court?

Mr. CHIDESTER. To the point of where—yeah, he was—

Chairman SHELBY. Have you had any contact with the Andrade family, Mrs. Andrade, or him, in the last two years?

Mr. CHIDESTER. Yes. Yes.

Chairman SHELBY. And under what circumstances and why?

Mr. CHIDESTER. Well, it would—he would call me.

Chairman SHELBY. Why?

Mr. CHIDESTER. He would say, you know, he was concerned about the issues and I told him that part of the conditions of his being up here, he would fully cooperate. He would probably be asked to explain his role. And that he had no immunity. His wife—

Chairman SHELBY. How many times have you talked with him in the last two years? Roughly?

Mr. CHIDESTER. In the last two years?

Chairman SHELBY. Yeah. Three years?

Mr. CHIDESTER. Three years. It would be—he would call me every three months, something like that.

Chairman SHELBY. Does he know how to reach you always?

Mr. CHIDESTER. He would call. Yes, he knew how to reach me.

Chairman SHELBY. Did you ever call him?

Mr. CHIDESTER. Yes.

Chairman SHELBY. Why?

Mr. CHIDESTER. I would call—

Chairman SHELBY. Why would you call him?

Mr. CHIDESTER. I was called by his wife. She would call me crying at times, saying that he was abusive, that she wanted to get away.

Chairman SHELBY. Had you developed, as Senator Kerrey alluded to, have you developed a close relationship to the Andrades? It seems like you have.

Mr. CHIDESTER. I am sympathetic to his wife and to his children. I have no sympathy for him. You know, I was in touch with him to get him to testify to Bergenthal.

Chairman SHELBY. Do you have any sympathy for the families here today?

Mr. CHIDESTER. I have a lot of sympathy for them.

Chairman SHELBY. Okay.

Mr. CHIDESTER. And when I went to the chief justice of the supreme court in El Salvador and demanded a conviction on this case, and there is only a conviction because of that pressure that was brought to bear on them. That would never have come about if we had just let the Salvadorans take their own course.

Chairman SHELBY. What leaps out at me here is why did no one ever say basically, whoa, let's stop. We made a mistake. Something is going on here. And block the parole somewhere.

We asked this question in the last hearing. There is something amiss here. There was something amiss all along. I believe there is a lot of injustice here.

Senator DeWine, do you have any further questions?

Senator DEWINE. Thank you, Mr. Chairman.

Mr. Chidester, let me go back to your written testimony. I want to read a paragraph and ask you about it.

* * * knew the DOJ had some issues unresolved on their part. I thought by sending the cable and requesting his parole, DOJ would have their opportunity to voice their opinion. It never occurred to me that the coordination with other agencies in Washington, D.C., should have been conducted from San Salvador.

And you have stated something similar to that in your oral testimony.

Mr. CHIDESTER. Right.

Senator DEWINE. My reading of that is your position is the normal protocol or the normal procedure is that that coordination automatically occurs in Washington.

Mr. CHIDESTER. Yes, sir; yes, sir.

Senator DEWINE. And Mr. Ambassador, you're shaking your head. I assume you believe that is a reasonable expectation?

Ambassador WALKER. That is correct, sir. I mean, you have to understand the way the field and headquarters in the State Department works.

Senator DEWINE. Well, help us out, because you're the expert.

Ambassador WALKER. Okay. There are standing operating procedures, our Foreign Affairs Manual, and such things as this type—all types of visas are outlined as to what the procedure is. It is for the embassy to propose, in this case, a recommendation for parole. It is for the Washington community to dispose of that request, either favorably or unfavorably.

When a consular section, and I repeat, it was the consular section that prepared the cable, because they—

Senator DEWINE. The significance of that is what, though?

Ambassador WALKER. The significance of that is, Rick Chidester was my legal officer, he worked out of the political section. He would, when he drafted cables, they would go out, as he said, with the secretary who was familiar with how those cables would be routed in Washington. What were the addresses on a cable coming out of the political section.

Out of the consular section it was a different set of a header, a different set of addressees up at the top of the cable. It is also the responsibility of the section that is drafting a cable to put on what we call tags, which are a couple of initials that indicate the general content of the cable. In this case, a parole request, that would be a certain tag. Those tags are supposed to make Washington, the communications receiver, the other end, determine what the distribution is of the cable in Washington.

The embassy supposes that those tags, those headers, are going to determine where the cable goes when it gets to Washington. We had always been told that a cable such as this—and I talked as recently as yesterday to Nick Ruccitti, who was the consul general in El Salvador at the time, who has a fairly good recollection of what procedures were followed in the field; he later worked in Washington in the visa office, he knows what procedures should have been followed when that cable hit Washington—he is very certain that those indicators that are on that cable should have

sent the cable to certain addressees that evidently did not receive it or claim not to have received it.

Senator DEWINE. Those would have been who? Who should have received that? Go through it again for me.

Ambassador WALKER. Well, I'm not sure. I'm not a consular officer. I am not sure how many tags are on the specific sort of cable that this was.

I am saying that there are tags that the consular section, in preparing that cable, should have affixed—

Senator DEWINE. In El Salvador?

Ambassador WALKER. In El Salvador, in San Salvador, in the embassy.

And that hitting Washington should have set off some automatic directions for where that cable should have gone. It went to some—the key offices. As Rick has already said, the office in the Latin American Division of Central American Affairs, slash, the Salvadoran desk, was responsible on the substantive side to pull together to get clearances from all responsible Washington participants in the process. If they did not do it, it is not the embassy's fault, it is that office's fault.

Similarly, the visa office would not have just automatically routinely done something with this cable that should not have been in the written record someplace, but apparently it's not. And I am trying to sensitize the Committee to certain things that were automatically supposed to happen, but according to the IG inspection, did not happen, or there was no record of it happening. And that is where I think some attention should be paid to assign accountability, responsibility, for the parole being granted.

Senator DEWINE. So your position—

Ambassador WALKER. The embassy, on the basis of the information we had, our best guess was he was a marginal participant, he had intel information he was willing to share, which might bring a quicker close to the war, a deal of some sort was struck with him, the cable was sent in recommending, giving all these facts as we knew them. That cable should have been distributed in a certain way. It either was or wasn't.

Senator DEWINE. Interagency.

Ambassador WALKER. Pardon?

Senator DEWINE. Interagency.

Ambassador WALKER. Interagency, correct. Interagency.

The Department is where interagency cooperation is supposed to occur at that level. In the field, we were in fact cooperating, coordinating, doing all those good things.

Chairman SHELBY. Senator, can I ask a question that just occurred to me?

We're talking about the inter-departments and cooperation, and I believe we used the word, the term "slugged" earlier, which is like a copy of something earmarked for me or Senator DeWine.

Ambassador WALKER. Right.

Chairman SHELBY. When you—did you send the cable and did somebody else—like if you sent a cable, do you tell them who to send it to? You know, whoever is sending it?

Mr. CHIDESTER. No, I did not.

Chairman SHELBY. Now if I write a letter to Ambassador Walker, and I feel like that Madelyn Albright, the Secretary of State, ought to get a copy of it, I put a carbon copy to her, or sometimes a blind copy, but a copy nevertheless, you know, so and so.

As the—if you were the author, if you were, why didn't you say specifically where these went, or they were slugged.

Mr. CHISTER. I initiated the request. Just like the earlier cable, apparently pulled together the interagency group to determine the earlier request for parole for his family, it would have, I believe, you sending this cable up, going through the proper procedures with our consular section would have had the same effect.

Senator DEWINE. Mr. Chidester, let me make a—let me interrupt you.

Mr. CHIDESTER. Yes.

Senator DEWINE. And just make sure I understand, to follow up the Chairman's question. I thought I heard you earlier saying, or maybe the Ambassador, that that really wasn't your job. In other words, your job inside in El Salvador, was to prepare it. Some other section, consular section determines the routing. Now, did I misunderstand that? Help me out there.

Ambassador WALKER. When a—

Senator DEWINE. In other words, who decides—you know, it's like I write a letter, who decides who gets the letter, I guess. You wrote, you're the author, but who decides the distribution?

Ambassador WALKER. Washington decides the distribution. When a cable is sent to Washington from the field, the author of that cable or the embassy itself can indicate certain places they want it to go specifically.

Senator DEWINE. And you do that how?

Ambassador WALKER. You put—

Senator DEWINE. Codes?

Ambassador WALKER. Up in the header you say, you know, information copy to, and then you list offices or other embassies around the world, whatever. But cables that go to Washington from an embassy are supposed to automatically go in one instance to the desk of that country—whatever the desk office is, is supposed to get copies of everything that comes in from the field, okay? Mr. Chidester has already said that when he went to the famous meeting in Washington where the interagency process was discussed, he went accompanying someone from the desk. I think he came back to El Salvador—and he can speak for himself—assuming that since his cable would automatically, whether he indicated it up in the header or not, would go to that office, and that office was responsible for bringing together the coordination and clearances that were necessary to make a response, that, you know, that he didn't have to slug it for that office, because they would get a copy automatically.

There are other things. The tags that I mention also indicate automatic addressees, so you don't have to put them in the header. You assume that it is going to go there because that tag connotes that cable being directed to this other office as well. Anything that comes out of a consular section and has consular tags, visa tags, will go to consular affairs in the Department.

Senator DEWINE. So you're—the test then would be—and it goes back to the statement, the paragraph that I just—that I read, which I think is a pretty good summary for Mr. Chidester's point, that you had a reasonable expectation—I am not saying whether I agree with you or don't agree with you, but I want to get your position——

Mr. CHIDESTER. I understand; yes.

Senator DEWINE. You've got a reasonable expectation that because of the nature of this request, this would go automatically over to Justice, It would go to the Agency, it would go to I don't know who all else—FBI.

Mr. CHIDESTER. That's always the way it had happened. And I can cite you a half dozen cases of where that happened.

Senator DEWINE. At that point, was there information that you had that was not available to any of those sources? In other words, did you have anything—I am following you so far.

Mr. CHIDESTER. Sure.

Senator DEWINE. But did you have information that was unique to you that the people who you assumed, correctly or incorrectly, you assumed would get that routing, didn't have?

Mr. CHIDESTER. I don't—there was nothing I was holding back. If I had——

Senator DEWINE. They would have already had it, is your point.

Mr. CHIDESTER. They should have had, and I would have summarized—the action that I took on the allegations was contained in the cable that talked about the polygraph exams. So that—that cable should have summarized certainly the key points that alleged Andrade's involvement in this murder.

If there was other information out there, I did not have it.

Senator DEWINE. I mean, Mr. Chidester, I mean, in my experience in dealing with people, sometimes it's important to sort of hit them over the head.

Mr. CHIDESTER. Yes; yeah.

Senator DEWINE. And if there is something I want to emphasize, I may know they already know it or they ought to know it, but if I want to drive something home, I'll put a paragraph in that says, now, you'll recall—and maybe that's not appropriate in your case, but you know——

Mr. CHIDESTER. I understand.

Senator DEWINE. You highlight certain basic facts, because you never assume people—at least I don't after a number of year's experience—I don't assume people are going to pull a damned file out and read everything in the file. Now, maybe that's a bad assumption, but I've dealt with life and people for a long time.

Mr. CHIDESTER. Right; right. I understand. Sure.

Senator DEWINE. I mean, in reviewing what you sent out, are you comfortable today, in hindsight, that you put the information in there you should have put in, or if you had to do it again, would you put more information in? I mean, you're sitting here in a Committee——

Mr. CHIDESTER. Well, If I had to do it again, I'd put more information in.

Senator DEWINE. You're at a Committee that you don't want to be, and you've been very cooperative, but in hindsight, would you highlight anything else in that cable?

Mr. CHIDESTER. Yes. Knowing what I know today, you bet. Knowing what I knew then, I was doing exactly what I thought was responsible to initiate that process in Washington. And I specifically spoke with people in ARACEN on the Salvador desk. They knew exactly what was happening.

Senator DEWINE. You spoke with them when?.

Mr. CHIDESTER. All the time.

Senator DEWINE. Contemporaneous to this period of time is what you're talking about.

Mr. CHIDESTER. Yes; oh, yes.

Senator DEWINE. Okay.

Thank you, Mr. Chairman.

Chairman SHELBY. When was the last time you talked to Mr. Andrade or his wife?

Mr. CHIDESTER. It would have been six months ago.

Chairman SHELBY. All of this is troubling to me and to the families and to a lot of people on the Committee, and I know to the American people.

Do we know why Andrastre was originally arrested in El Salvador, and if not, why not, given all the questions that we did of him.

Bob, do you know?

BOB. Not—my recollection is that he was—he was fingered by a guy who was captured—another terrorist who was captured on the United States border.

Chairman SHELBY. Okay.

BOB. And he was on the Watch List, but I think he did something silly and called the authorities' attention to him. He wasn't found by good investigators and arrested for the reason, but he was already fingered and they—as soon as they—whatever reason that I don't recall, he fell into their hands. They quickly put it together and said this is the guy that was denounced by the fellow at the border.

Chairman SHELBY. Are you confident that we have all the information that the Salvadorans might have regarding Andrade's guilt? Did they ever share evidence with you, or just talk to you?

BOB. One can never be totally comfortable, sir, but they did interrogate him following guidelines and answering questions that we raised ourselves, and it was a cooperative effort from the station and also from Washington, D.C., when we finally got him talking.

And we believe that these specific questions that the Salvadorans raised on our behest and on their own behest in related manner to the terrorist activity, we believe they were pretty forthcoming and did share.

Chairman SHELBY. Where did Mr. Andrade reside just prior to his departure for the United States?

Mr. CHIDESTER. He was brought over to my house as part of the video taping.

Chairman SHELBY. You let him stay at your house?

Mr. CHIDESTER. I was asked to, yes, as part of that—

Chairman SHELBY. How long did he stay at your house?

Mr. CHIDESTER. It was a couple of days.

Chairman SHELBY. You let him in your home? Is this routine?

Mr. CHIDESTER. I was there alone. I was there with a fellow named Lionel Gomez that was working with the Embassy and we had asked Lionel to work with him to pull this out and he had said why don't we do this as part of making the video happen. So I went along with that.

Chairman SHELBY. Down deep, didn't you have an interest in getting him into the United States? I mean a personal interest? Look at your—by your own testimony, your concern for him, concern for his family, I mean his wife, his children and so forth. And ultimately you recommended parole.

Mr. CHIDESTER. Yes, I did recommend the parole. If there's—

Chairman SHELBY. I mean, you weren't dealing at arms length with him. This is a man that you were—he stayed at your home before he came here, came to the United States. You've been in contact with him, you've called him. You said here that you've called him as well as he's called you.

Mr. CHIDESTER. I've returned his calls.

Chairman SHELBY. That's just troubling to me. I think there has got to be accountability for this. We're all hoping, a lot of us are, that he is sent back to El Salvador, where he belongs, not here. And I hope not to a third country. Accountability is important, and I don't see a lot of accountability here today. It is troubling.

The Committee is adjourned.

[Thereupon, at 4:11 p.m., the Committee was adjourned.]

17 January 1997

The Honorable Richard Shelby
Chairman
Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

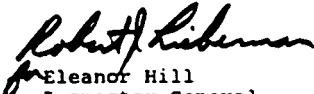
Dear Mr. Chairman:

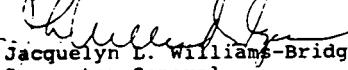
On 20 December 1996, Senator Specter, then-Chairman of the Senate Select Committee on Intelligence, sent a letter to the Departments of Defense (DoD), Justice (DoJ), State, and the Central Intelligence Agency (CIA) requesting that they declassify their Inspector General reports on the 1985 Zona Rosa killings of six United States citizens in El Salvador.

In response to that request, we are enclosing a declassified copy of each report. At the request of the CIA and DoD, some information has been redacted from the reports of CIA, DoD and DoJ to protect sources and methods and the identities of CIA employees. In addition, the DoJ has redacted from its report the names of several people who were interviewed as potential witnesses to the killings as well as the names of non-supervisory FBI employees.

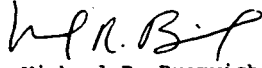
If you have any questions concerning these reports, please contact the following cognizant representatives from each of the four OIGs: Defense - Russell A. Rau (703-604-8800), Justice - Glenn Fine (202-616-0645), State - M. Milton MacDonald (202-647-9450), and CIA - Rick Cinquegrana (703-874-2600).

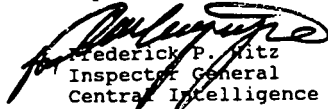
Sincerely,


Eleanor Hill
Inspector General
Department of Defense


Jacquelyn L. Williams-Bridgers
Inspector General
Department of State

Enclosures


Michael R. Bromwich
Inspector General
Department of Justice


Frederick P. Gitz
Inspector General
Central Intelligence Agency

*Central Intelligence Agency
Inspector General*

REPORT OF INVESTIGATION



INFORMATION AVAILABLE TO CIA REGARDING THE
1985 ATTACK ON U.S. MARINES IN THE ZONA ROSA
(96-0043-IG)

September 18, 1996

*Frederick P. Hitz
Inspector General*

*A. R. Cinquegrana
Deputy Inspector General
for Investigations*

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GLOSSARY OF INDIVIDUALS AND ORGANIZATIONS

Andrade Martinez, Pedro Antonio	PRTC member and a leader of the PRTC urban commandos. Believed by some to be the planner of the Zona Rosa attack. He used the aliases "Mario" and "Mario Gonzalez."
Alvarado Martinez, Maria Elba	A PRTC member and keeper of a safehouse used as a meeting place by the urban commandos.
Araujo Ramirez, Americo Mauro	Sub-Secretary General of the Communist Party of El Salvador. His alias was "Comandante Hugo." He was also known within the insurgency as Mario Americo Duran.
Bolanos Rivas, Jose Antonio	Participant in the Zona Rosa attack. His alias was "Macias."
CAJIT	Central America Joint Intelligence Team; part of the U.S. Defense Intelligence Agency.
Cruz, Mardoqueo	PRTC guerrilla killed in a gun battle with security forces on June 20, 1983. The PRTC group that carried out the Zona Rosa attack was named for him.
DCI	Director of Central Intelligence.

DGOE	Cuba's General Directorate of Special Operations.
DIA	U.S. Defense Intelligence Agency.
Diaz, Nidia	The alias of Maria Martha Concepcion Valladarea Mendoza de Lemus, a military commander and member of the Central Committee of the PRTC. She was captured on April 18, 1985, along with a large number of PRTC documents.
Dimas Aguilar, Ismael	PRTC member who led the unit that committed the Zona Rosa murders. His alias was "Ulises."
Dimas Aguilar, Jose Abraham	PRTC member who provided support to Zona Rosa perpetrators.
DNI	El Salvador's Directorate of National Intelligence.
DoD	Department of Defense.
DoJ	Department of Justice.
Duarte, Inez	Daughter of President Jose Napoleon Duarte.
Duarte, Jose Napoleon	President of El Salvador, 1984-89.
Duran, Mario Americo	Sub-Secretary General of the Communist Party of El Salvador. His alias was "Comandante Hugo." He also identified himself as Americo Mauro Araujo Ramirez.

<i>Estado Mayor</i>	El Salvador's Armed Forces Joint General Staff.
FARLP	Revolutionary Armed Forces for Popular Liberation, the military arm of the PRTC.
FARN	Fuerzas Armadas de Resistencia Nacional, an insurgent group within the FMLN.
FMLN	Farabundo Marti National Liberation Front, an organization of guerrilla groups engaged in civil war against the Salvadoran Government.
Gallardo, Fernando	Alias of a PRTC leader who claimed responsibility for the Zona Rosa attack. It may be an alias for "Walter" or a name used to represent the urban commandos in public statements.
Garcia Melendez, Juan Miguel	A PRTC member who was apprehended by the U.S. Border Patrol and volunteered information on the Zona Rosa attack.
Gonzalez, Mario	The alias of Pedro Antonio Andrade Martinez, PRTC member and a leader of the PRTC urban commandos.
Jovel Urquilla, Francisco Alberto	Secretary General of the PRTC; Commander of its military wing, the FARLP; member of the FMLN Joint General Command. He used the alias "Roberto Roca."

Julio	Alias of Jose Roberto Salazar Mendoza, a participant in the Zona Rosa attack. He was shot in the attack and died of his wounds. True name was possibly Jose Roberto Salazar Mendoza or Jose Roberto Torres Ortiz.
Lemus Figueroa, Jose Antonio	A PRTC member who was erroneously identified as "Walter."
Lopez Alvarenga, Jose Mario	PRTC Political Commission member.
Lopez Nuila, Carlos Reynaldo	El Salvador's Vice Minister of Public Security.
Mario, also Mario Gonzalez	The alias of Pedro Antonio Andrade Martinez, PRTC member and a leader of the PRTC urban commandos.
Masferrer Valladares, Jose Anibal	A member of the PRTC Metropolitan Front.
Melgar, Jose Manuel	PRTC leader in charge of the Central Front. His alias was "Rogelio Martinez."
MLP	Popular Liberation Movement, a <i>masas</i> organization composed of sympathizers of the PRTC.
Morales Lucero, Juan Antonio	A participant in the Zona Rosa attack. He provided security from the back of a truck. His alias was "Ruperto." He may also have used the alias "Pepe."

OGC	CIA's Office of General Counsel.
Orellana Mena, Axel Armando	PRTC Military and Political Commander and full member of the PRTC Central Committee. He divulged information leading to the capture of Andrade.
Osorio, Romeo Gilberto	A U.S. citizen and PRTC member who used the alias "Gerardo Zelaya."
Pepe	The alias of a participant in the Zona Rosa attack. There is no firm identification of his true name. He might be Juan Antonio Morales Lucero, who also used the alias "Ruperto."
PRTC	Central American Revolutionary Workers Party, the insurgent group responsible for the Zona Rosa attack.
Rivas Bolanos, Wilian Celio	PRTC member and self-confessed participant in the Zona Rosa attack. His alias was "William."
Rivas, Emerson	Military commander of the Central Front of the PRTC. His alias was "Camilo Turcios."
Rivera Valladares, Ana Concepcion "Connie"	Andrade's wife.
Rodriguez Guardado, Pedro Vladimir	A PRTC member who hid the weapons used in the Zona Rosa attack. His alias was "Mauricio." He is the son of Pedro Rodriguez, alias "Raul."

Rodriguez, Pedro	A PRTC member who helped hide the weapons used in the Zona Rosa attack. His alias was "Raul." His son, who collaborated with him, is Pedro Vladimir Rodriguez Guardado.
Salazar Mendoza, Jose Roberto	Possible true name of alias "Julio," a participant in the Zona Rosa attack. He was wounded in the attack and died.
SSCI	Senate Select Committee on Intelligence.
SIU	El Salvador's Special Investigative Unit.
Torres Ortiz, Jose Roberto	Possible true name of "Julio," a participant in the Zona Rosa attack.
Ulises	The alias of Ismael Dimas Aguilar, on-site leader of the unit responsible for the Zona Rosa attack.
Valladarea Mendoza de Lemus, Maria Martha Concepcion	A military commander and member of the Central Committee of the PRTC. She was captured on April 18, 1985 with a large number of PRTC documents. Her alias was "Nidia Diaz."
Walter	The alias of a participant in the Zona Rosa attack who led the security squad of the unit that did the killings.
Zelaya, Gerardo	Alias of Romeo Gilberto Osorio, a U.S. citizen and PRTC member.

OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS STAFF

REPORT OF INVESTIGATION

INFORMATION AVAILABLE TO CIA REGARDING THE
1985 ATTACK ON U.S. MARINES IN THE ZONA ROSA
(96-0043-IG)

September 18, 1996

INTRODUCTION

1. (U) On June 19, 1985, 12 people were murdered by members of an insurgent group at an outdoor restaurant in the Zona Rosa section of San Salvador, El Salvador. Four of the victims were members of the U.S. Embassy Marine Security Guard, two were U.S. businessmen and six were Latin American civilians. They were slain by members of the Central American Revolutionary Workers Party (PRTC), one of the guerrilla groups engaged in a civil war against the U.S.-backed Salvadoran Government.

2. (U) The Zona Rosa attack was one subject of a *60 Minutes* television broadcast aired on May 21, 1995. The program contained an interview with Gilberto Osorio, an admitted member of the PRTC. Osorio referred to guerrilla involvement in the killings of the four U.S. Marines, and stated, "We made it a point to target some American servicemen in order to make a point to Congress and to have them take a second look about what was going on." The *60 Minutes* interviewer stated that Osorio helped plan the killings. However, from the context, it was uncertain whether Osorio meant

that he participated directly in the decision or that the PRTC, as an organization to which he belonged, made the decision to engage in the terrorist action.

3. (U) A month after the *60 Minutes* broadcast, Director of Central Intelligence (DCI) John Deutch presented a report of his first 30 days in office to the Senate Select Committee on Intelligence (SSCI). At that time, he was questioned about Osorio's presence in the United States and whether the former guerrilla had any dealings with the CIA. DCI Deutch was also asked about an alleged 1985 retaliatory attack on a Salvadoran guerrilla encampment during which 85 insurgents were killed by U.S. Army Rangers. DCI Deutch promised to gather information and report back to the SSCI.

4. (U) Subsequently, CIA officers arranged to brief the SSCI on October 12, 1995 regarding these and other questions relating to the Zona Rosa attack. They reported that CIA had no intelligence linking Osorio to the killings; but they did provide information relating to another insurgent, Pedro Antonio Andrade Martinez. Andrade was thought by some to be the planner of the murders and was paroled into the United States in 1990. In addition, on November 2, 1995, CIA provided written responses to 11 questions from the SSCI about Osorio and the perpetrators of the Zona Rosa attack.

5. (U) On February 22, 1996, the SSCI requested that DCI Deutch ask the CIA Inspector General to investigate the facts surrounding the 1985 terrorist killings of the six Americans in El Salvador. Similar requests were made of the Inspectors General at the Department of Justice (DoJ), Department of Defense (DoD), and State Department.

BACKGROUND

6. (U) **The Civil War in El Salvador.** A series of repressive military governments held power in El Salvador for over 40 years, beginning in the 1930s. Throughout the 1970s, the gap between the landless population and a small landed elite continued to widen as

wealthy citizens became more willing to use force to defend their privileges. The peasants, spurred on by religious teachings on social justice, increasingly organized to demand change. Death squads, composed of former and active-duty military personnel, emerged to root out subversives. Clashes between the rival groups dramatically increased the incidence of assassinations and more than 600 citizens were killed in 1979 alone. Leftist guerrilla groups contributed to the violence by accelerating involvement in assassinations, kidnappings and bombings.

7. (U) Political polarization and violence intensified in the early 1980s even as attempts were made to implement government reforms. A series of reform-minded juntas that came to power in late 1979 were thwarted by both the right, which resisted liberalization, and by the left, which decided to forego cooperation in favor of revolutionary struggle. The left was composed mainly of five armed guerrilla groups loosely organized under an umbrella organization, the Farabundo Marti National Liberation Front (FMLN). One of the smallest, but more violent, of these groups was the Central American Revolutionary Workers Party (PRTC, from the Spanish name *Partido Revolucionarios de Trabajadores Centro Americanos*). (See box on following page for more information regarding the PRTC.)

8. (U) Even though there was limited support for the guerrillas among the general population, the FMLN maintained international support, retained military strongholds and engaged in a protracted conflict marked by economic sabotage. During the 1980s, FMLN influence expanded throughout the rural areas.

9. (U) Until the end of the 1980s, civil war continued alongside the strengthening of the democratic electoral process. Salvadorans voted five times between 1982 and 1988 for president, legislators and other offices despite ongoing political violence. By the end of the 1980s, insurgent leaders increasingly became interested in legitimate political activity because of a perceived improvement in the political climate.

PRTC

(U) The PRTC was officially formed in 1976 as a Trotskyist regional party with branches throughout Central America. However, the PRTC shed all vestiges of Trotskyism by the mid-1980s and professed a Marxist-Leninist ideology. The PRTC organized along classic Leninist lines of parallel political, military and mass organizations. In Spanish, this latter group of sympathizers and support elements was called *masas*. The PRTC was the political arm, with key leaders in the military and *masas* organizations; the Revolutionary Armed Forces for Popular Liberation (FARLP) was the military arm; and the Popular Liberation Movement (MLP) formed the *masas* organization. The PRTC and FARLP were further divided into three organizational echelons: directive, intermediate, and cell.

(U) Prior to its 1980 admission into the FMLN, the PRTC, unlike the other FMLN factions, was attempting actively to organize armed insurgent movements throughout Central America rather than just in El Salvador. The PRTC officially renounced its claims to regional subversion upon joining the FMLN. However, it retained branches of its *masas* arm in Costa Rica and Honduras.

The PRTC was the smallest of the five factions that made up the FMLN. The exact size of the PRTC's components was never known by outside observers with any great accuracy. A 1987 Defense Intelligence Agency (DIA) estimate put the number of armed combatants [REDACTED]. The number of supporters or sympathizers was a much more nebulous figure, probably even to the PRTC, [REDACTED].

The number of combatants was larger prior to the Zona Rosa attack. But because of increased pressure by the Salvadoran military, there was, according to the same DIA estimate, [REDACTED] decrease in combatant strength through military action and desertions.

(U) The PRTC combatants were armed with a variety of military small arms and explosives. Some of its combat leaders had received guerrilla training in Cuba or other Soviet Bloc countries.

10. (U) The conflict between insurgent and government forces came to a head during the latter half of 1989. The rebels refrained from attacking polling places during the elections, but they blacked out San Salvador and 80 percent of the country by attacks on the power grid and generator plants and ordered a transportation shutdown. In November 1989, the rebels launched their last major offensive, reaching the capital city of San Salvador itself. The fighting resulted in a stalemate that forced both the Salvadoran Government and the FMLN to respond favorably to a negotiated settlement.

11. (U) Talks mediated by the United Nations began in 1990, culminating in the Chapultepec Peace Accord of January 1992. The accords called for a cease-fire and set forth numerous demands, including an independent investigation of human rights abuses committed by both sides during the war. To date, progress in the implementation of constitutional, judicial and economic reforms has been excellent and former adversaries are using the political system to resolve their differences.

12. (U) **The Zona Rosa Attack.** On June 19, 1985, gunmen dressed in camouflage clothing opened fire on a crowd at an outdoor café in a residential area of San Salvador, killing six U.S. and six Latin American citizens. The victims were sitting at three outdoor cafés when the gunmen drove up in a pickup truck and opened fire. U.S. Marines sitting at a sidewalk table in front of Chili's restaurant were specifically targeted in the attack. Four Marines were killed and two others escaped as the attackers sprayed gunfire at patrons in Chili's and the adjacent Flash Back and Mediteraneé cafés. The gunmen escaped by truck, carrying one of their wounded comrades with them.

13. (U) Within minutes of the attack, officials from the U.S. Embassy, who had been called by Americans at the scene, arrived and transported the four Marines to a local hospital. One died at the scene, two others enroute to the hospital, and one shortly after reaching the hospital. The Marines were:

- ♦ Sgt. Bobby Joe Dickson, age 27, Tuscaloosa, Alabama;
- ♦ Sgt. Thomas Taschner Handwork, age 24, Dayton, Ohio;
- ♦ Cpl. Patrick Robert Kwiatkowski, age 20, Wausau, Wisconsin; and
- ♦ Cpl. Gregory Howard Weber, age 22, Cincinnati, Ohio.

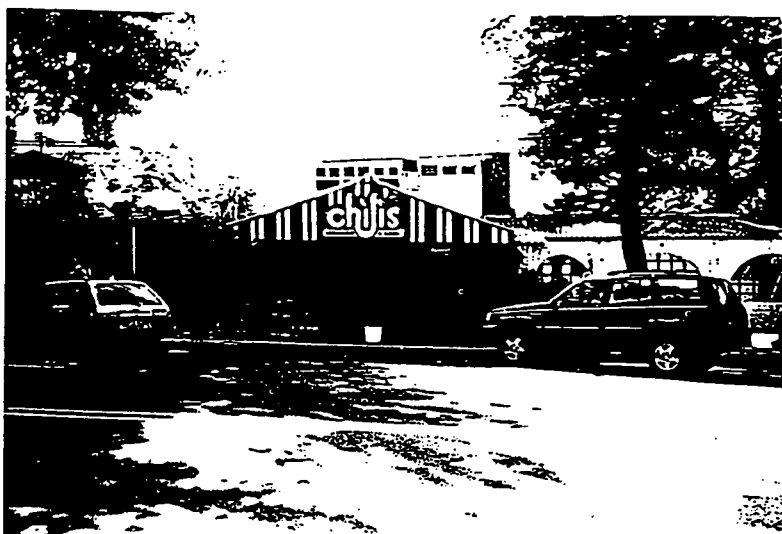
The Marines were examined by the medical examiner at the Diagnostic and Emergency Hospital in San Salvador within hours after the attack. The cause of death in each case was multiple bullet wounds.

14. (U) Approximately one hour after the attack, a guerrilla with bullet wounds in his back was left at a Red Cross station by unidentified men who claimed to be members of the FMLN. The wounded man was taken by a Red Cross employee to the Rosales Hospital where he died that night.

15. (U) Eight other people died and six were wounded in the Zona Rosa attack. The dead were:

- ♦ George Viney, age 48, Miami, Florida, employed by WANG Corporation;
- ♦ Robert Alvidrez, age 47, Lexington, Massachusetts, employed by WANG Corporation;
- ♦ Oswaldo Gonzalez Zambroni, Guatemala;
- ♦ Richard Ernest Macardle, Chile;
- ♦ Humberto Antonio Gonzalez Pineda, El Salvador;
- ♦ Arturo Alonso Silva Hoff, El Salvador;
- ♦ Jose Elder Vidal Penalva, El Salvador; and
- ♦ Umberto Saenz Cevallos, El Salvador.

16. (U) The bodies of the Marines were transported to Gorgas Army Hospital in Panama and prepared for burial. On June 22, 1985, they were taken by military aircraft to Andrews Air Force Base where President Reagan met the plane. At the tarmac ceremony, Reagan told the family members:



(U) Chili's café, scene of the June 19, 1985 attack, still serves the Zona Rosa district of San Salvador.



Photos by Philip Bonds, State Department OIG, June 1996.

They say the men who murdered these sons of America escaped, disappeared into the city streets. But I pledge to you today, they will not evade justice on earth any more than they can escape the judgment of God. We and the Salvadoran leaders will move any mountain and ford any river to find the jackals and bring them and their colleagues in terror to justice.

17. (U) On June 20, 1985, a public statement by President Reagan ordered the State Department, DoD and U.S. intelligence agencies to provide the Government of El Salvador with whatever assistance was necessary to find and punish the terrorists who perpetrated the attack.

18. (U) Two days after the attack, the PRTC claimed responsibility for the killings. In a communiqué issued over clandestine radio on June 21, 1985, a guerrilla leader said a small group within the PRTC, the Mardoqueo Cruz urban commandos, carried out the "annihilation attack" on the Americans. The commandos were named for PRTC member Mardoqueo Cruz who died on June 20, 1983 in a gun battle with public security forces. Terrorist activities of the group in the metropolitan area had begun in June 1984 and were limited mainly to dynamiting basic services such as electricity, transportation and communications, and attacks on police and business vehicles. The commandos were organized in three groups, or "cells," of five members each.

19. ■ It was FMLN policy that Salvadoran and U.S. military personnel were considered legitimate targets only when at military sites. This policy excluded injury to civilians or actions at any non-military sites. In a late June 1985 intelligence report, a ranking official within another FMLN faction is cited as saying that the June 19 attack had been planned and carried out by PRTC members without previous coordination with the FMLN. Once it was carried out, however, FMLN leaders had no choice but to express support for the attack in order to maintain a unified front within FMLN ranks.

20. (U) On August 4, 1985, Salvadoran citizen Juan Miguel Garcia Melendez was caught by the U.S. Border Patrol as he crossed

the border illegally into the United States near San Diego, California. Garcia volunteered to the Border Patrol that he had information about the slaying of four U.S. Marines in San Salvador, and he provided details of the attack in hopes of earning a \$100,000 reward that had been offered by the U.S. Government for information regarding the Zona Rosa attack. He named other PRTC members and told authorities about two safehouses where the commandos met regularly. One was an upholstery shop and the other was an auto repair shop. Garcia was returned to El Salvador on August 16 and was arrested by the Treasury Police. He was later identified as a member of the PRTC's Mardoqueo Cruz urban commandos.

21. (U) Acting on the information provided by Garcia, on August 12, 1985, the Salvadoran National Guard arrested Wilian Celios Rivas Bolanos at the upholstery shop and Jose Abraham Dimas Aguilar at the auto repair shop. A fifth member of the commandos, Ismael Dimas Aguilar, fled as police approached his house.

22. (U) A sixth guerrilla was arrested on January 18, 1986 for assisting the PRTC by hiding weapons used in the Zona Rosa attack. Pedro Vladimir Rodriguez Guardado and his father, Pedro Rodriguez, cached guns, grenades, rocket launchers, and ammunition for the commandos in barrels buried in the yard around their house. The senior Rodriguez, who was not at home when the National Guard raided the residence, escaped capture, but his son was taken into custody.

23. (U) Juan Antonio Morales Lucero was identified as a member of the commandos and was taken into custody on July 13, 1988. Jose Antonio Bolanos Rivas and an individual known only by the alias "Walter"¹ were identified as additional perpetrators, but they were never arrested. Several guerrillas and other sources

¹ (U) As a result of Cuban advice and for self protection, insurgents adopted aliases as "war names." Often fellow insurgents would know each other only by their alias. Senior members of insurgent groups tended to have more than one alias. In this report, aliases are noted by the use of quotation marks.

identified Pedro Antonio Andrade Martinez, using his alias "Mario Gonzalez,"² as head of the three urban commando groups and planner of the Zona Rosa attack.

PROCEDURES AND RESOURCES

24. [REDACTED] When the DCI forwarded to the Inspector General the SSCI request to investigate the Zona Rosa matter in February 1996, two investigators from the Office of Inspector General's (OIG) Investigations Staff were assigned to the task. An auditor joined the team for a five-week period to assist in tracing financial transactions. Two senior investigators served as advisors to the team throughout the investigation and provided editorial, distribution and coordination guidance. The investigation team reviewed CIA files and relevant documents from the Latin America Division and the Operations and Resource Management Staff of the Agency's Directorate of Operations; the Office of African and Latin American Analysis of the Directorate of Intelligence; the DCI Secretariat; the Office of Congressional Affairs; the Office of General Counsel (OGC); and open source material provided by the Office of Information Resources of the Directorate of Intelligence and the Foreign Broadcast Information Service of the Directorate of Science and Technology. Field work was conducted from February through August 1996.

25. [REDACTED] More than 1,000 documents consisting of over 16,000 pages of text were reviewed during the course of the investigation. Twenty-one present and former Agency employees were interviewed. This included former Chiefs and Deputy Chiefs of San Salvador Station and officers who served at the Station during the

² (U) Some members of the PRTC knew Andrade only by his alias "Mario" or "Mario Gonzalez." Their descriptions usually included background or other information about "Mario" that was used to identify him as Andrade, an alleged planner of the attack. Although CIA documents contain references to more than one insurgent who used the alias "Mario," the only references included in this report are those identifying "Mario" as the leader of the PRTC urban commandos or by other positions that Andrade, according to his own admission, held. His true name was not known to Salvadoran authorities until shortly before his capture in 1989. For the benefit of the reader, the name Andrade, rather than "Mario" or "Mario Gonzalez" has been used throughout this Report, except when quoted from the original material.

periods 1985-86 and 1989-90, as well as officers who had served at CIA Headquarters in relevant positions during the same periods.

26. (U) In conjunction with personnel from the DoJ, DoD and State Department Offices of Inspector General, CIA OIG investigators participated in interviews of 24 officials from those departments as well as from the Federal Bureau of Investigation (FBI) and Immigration and Naturalization Services who served in El Salvador or in Washington during the pertinent periods and were in positions to provide relevant information. DoD, DoJ and State Department shared their written records with CIA to allow a more complete and accurate reconstruction of the events.

27. (U) Current and former government officers who were interviewed in connection with this investigation had to depend on their memories of events that happened six to 11 years ago. Most explain that their recall of those events is imperfect, especially in light of the fact there was a civil war underway in El Salvador during 1985-1990. Because of the lapse of time and faulty memories on many topics, this Report draws heavily on documents prepared as the events happened, both formal reports and informal memorandums. When memories of two or more participants in events appeared to be contradictory, the findings are based on the written record.

ISSUES PRESENTED

28. (U) The SSCI requested that eight issues regarding the Zona Rosa attack be addressed by each of the agencies. In an effort to ensure that related information is presented together, the issues are treated in a different order in this Report. (The page at which the discussion of each issue begins is indicated in parenthesis following each issue.) As applied to CIA, the SSCI asked that the OIG determine:

Issue 1: "What information the [CIA] has on perpetrators/ intellectual authors of the murders and the subsequent investigation into the matter." (Page 13)

Issue 2: "What action has been taken by officials from [CIA] against the perpetrators/intellectual authors of the murders." (Page 44)

Issue 3: "What information [CIA] received from perpetrators/intellectual authors of the murders." (Page 57)

Issue 4: "What relationship [CIA] had, either before or after the murders, with the perpetrators/intellectual authors of the murders or other individuals known or suspected to have been involved." (Page 63)

Issue 5: "What role [CIA] has played in the investigation of the murders, and what priority has been placed on the investigation." (Page 39)

Issue 6: "What role [CIA] played in determining whether any of the known or suspected perpetrators/intellectual authors of the murders, or members of their families, were authorized to travel to or take up residence in the United States, and under what conditions and with what justification." (Page 70)

"In addition, whether or not any wrongdoing, negligence, or a breach of procedures occurred in allowing known or suspected Zona Rosa perpetrators/intellectual authors of the murders to enter or remain in the United States, and if so by whom." (Page 85)

"If suspected perpetrators/intellectual authors of the murders are in this country illegally, or without current authorization, what is being done to correct the situation?" (Page 85)

Issue 7: "What dealings, since the murders, [CIA] has had with the Government of El Salvador on this matter, and whether in the course of that relationship the Salvadoran government demonstrated an aggressive effort to identify, prosecute and incarcerate the perpetrators/intellectual authors." (Page 49)

Issue 8: "What specific action and or information [CIA] now has, or may have provided, regarding any reprisal for the Zona Rosa terrorist act." (Page 90)

FINDINGS

A. CRIMINAL INVESTIGATION AND PROSECUTION OF THOSE INVOLVED

Issue: "What information [CIA] has on perpetrators/intellectual authors of the murders and the subsequent investigation into the matter."³

29. [REDACTED] "Julio"/possibly Jose Roberto Salazar Mendoza/Jose Roberto Torres Ortiz. On June 19, 1985, at approximately 9:00 p.m., a pickup truck drove up to the front of Chili's restaurant in the Zona Rosa section of San Salvador where U.S. Marines and other Americans attached to the U.S. Embassy frequently met to socialize and dine. Information about the attack was included in a Salvadoran National Police report to President Duarte, which was disseminated as a U.S. intelligence report on July 4, 1985. "Julio" and three other men dressed in camouflage shirts and caps and armed with M-16 automatic rifles jumped from the bed of the truck. Following their leader, they opened fire on Marines seated at a sidewalk table in front of the restaurant. During the initial bursts of gunfire, "Julio" was shot in the back and mortally wounded when he stepped into the line of fire of another guerrilla. When the shooters returned to the vehicle, the leader noticed that "Julio" was missing. The leader returned to the café, picked up "Julio" and carried him to the truck.

³ [REDACTED] Most of the information in this section was derived from statements of captured perpetrators Rivas, Garcia, Abraham Dimas, Vladimir Rodriguez, and Morales. Salvadoran security forces holding the prisoners interrogated them extensively and shared that information with San Salvador Station. The Station, in turn, prepared intelligence reports based on the data, and, after Headquarters' review, those reports were disseminated to other U.S. intelligence consumers.

30. (U) A doctor at the Salvadoran Red Cross reported that, at 9:40 p.m. on the same day, three men driving a white pickup truck arrived at the Red Cross facility with a man who had suffered a gunshot wound in the back just above the waist.⁴ The men said they were members of the FMLN but did not give their names, and they left their wounded comrade behind. Because of the seriousness of the injury, an employee of the Red Cross transported the guerrilla to Rosales Hospital. There, he was taken into surgery but died before the National Police could obtain a statement from him. Paraffin tests conducted on the deceased guerrilla were positive, indicating he had recently fired a weapon.

31. (U) The National Police report to President Duarte disclosed that identity papers on the body bore the name of Jose Roberto Salazar Mendoza, age 21 years. The identity papers had been falsified: the address of residence was non-existent, and there was no record of the mother and father of the individual listed on the card. A policeman gave a tentative identification of the body as that of Jose Roberto Torres Ortiz, a former school mate. Neither Salazar nor Torres was ever identified as the true name of "Julio."

32. [REDACTED] An FMLN member told a Salvadoran security service that "Julio" was a close friend of Mardoqueo Cruz, a guerrilla who had been killed on June 20, 1983 in a battle with public security forces and for whom the urban commandos were named. The attack occurred just one day prior to the second anniversary of Cruz' death, and some have speculated the attack may have been planned in commemoration of the event.

⁴ [REDACTED] Information from the Red Cross was obtained by a Salvadoran security service and passed to San Salvador Station. It was included in an intelligence report disseminated to the U.S. intelligence community on June 22, 1985.

IDENTITIES AND ROLES OF PARTICIPANTS IN THE ZONA ROSA ATTACK		
NAME	POSITION	OUTCOME
"Julio," true name unknown	Shooter.	Died June 19, 1985, from gunshot wounds suffered in Zona Rosa attack.
Wiliam Celios Rivas Bolanos, alias "William"	Shooter.	Arrested August 12, 1985; found guilty of subversive association, cooperation in propaganda, acts of terrorism resulting in deaths of several persons; sentenced to 25 years in prison, released September 1995 after serving 10 years 8 months.
Ismael Dimas Aguilar, alias "Ulises"	Shooter, led the attack.	Never apprehended, believed killed in action November 20, 1985.
Jose Antonio Bolanos Rivas, alias "Macias"	Shooter.	Never captured, whereabouts unknown.
Jose Antonio Morales Lucero, alias "Ruperto"	Provided cover from back of truck.	Arrested July 13, 1988; charged with subversive association, spreading anarchical propaganda, and planning and carrying out terrorist acts; found not guilty; imprisoned 5 years 1 month while awaiting trial.
"Pepe," true name unknown	Provided cover from back of truck.	May be the same as Jose Antonio Morales Lucero; no further information available.
"Walter," true name unknown	Fired at Brazilian embassy guard during attack.	Never apprehended, believed killed in action November 20, 1985.
Juan Miguel Garcia Melendez	Worked at a guerrilla meeting site, did not participate directly in attack.	Arrested August 16, 1985; found guilty of subversive propaganda, subversive association, and acts in support of terrorism; sentenced to 11 years in prison with subsequent reduction to 7 1/2 years; released February 1993 after serving 7 years 6 months.
Pedro Vladimir Rodriguez Guardado, alias "Mauricio"	Stored weapons used in attack.	Arrested January 17, 1986, no further information available.
Pedro Rodriguez, alias "Raul"	Stored weapons used in attack.	Fled San Salvador when his house was searched, never apprehended, whereabouts unknown.
Jose Abraham Dimas Aguilar	Worked at a guerrilla meeting site, ran errands for comando group.	Arrested August 12, 1985; found guilty of acts in support of terrorism; sentenced to 4 years; released March 1992 after serving 6 years 7 months.
Pedro Antonio Andrade Martinez, alias "Mario Gonzalez"	Leader of 3 cells of the Mardoqueo Cruz urban commandos; believed by some to have been the planner of the attack.	Arrested May 28, 1989; held in police detention until June 28, 1990; granted a parole into the United States in the public interest; resides in New Jersey.
Romeo Gilberto Osorio, alias "Cecardo Zelaya"	PRTC member; no connection to Zona Rosa murders.	American citizen; resides in San Francisco, California.

33. (U) Wilian Celio Rivas Bolanos/"William." Wilian Celio Rivas Bolanos, also known as "William," was the ostensible owner of the upholstery shop, *Tapiceria Estrella*, which was a meeting place for the guerrillas.⁵ When the Zona Rosa attack took place, Rivas was 17 years old and had been a member of the PRTC for four years.

34. (U) Rivas was recruited into the guerrilla group by Ismael Dimas Aguilar in 1981, and they worked together in Cerros de San Pedro for two and one-half years. In the rural areas, Rivas participated in sabotage of transportation on the Pan-American Highway and in clashes with Salvadoran armed forces. He relocated to San Salvador in 1983 to establish a PRTC presence in the city where he again worked for Ismael Dimas. He took part in the sabotage of telephone boxes and lamp posts, attacks on military troop transport vehicles and the takeover of a radio station. He was paid the equivalent of \$22 per month for his work in the PRTC.

35. (U) On June 14, 1985, Ismael Dimas told Rivas that a plan was underway to attack some North Americans, but he provided no further details. On the morning of June 19, Ismael Dimas told Rivas the group would carry out a special operation that night and instructed Rivas to meet him at the *Café de Don Pedro* at 8:00 p.m. Rivas and another commando were picked up by Ismael Dimas and other group members in a Toyota truck. Andrade met the group at *Don Pedro's*, spoke briefly with Ismael Dimas out of the hearing of the other commandos and then left in his own car. Ismael Dimas then told the group that Andrade had said that North Americans were to be the targets, and "they were in the place where they would be massacred."

36. (U) As they drove to the Zona Rosa, the men donned camouflage shirts, caps and green knapsacks. Each of them also took

⁵ Most of the information in this section regarding the Zona Rosa attack is from interrogation statements provided by Rivas to Salvadoran authorities after his arrest. The data was shared with San Salvador Station, and much of it was provided to the U.S. intelligence community in disseminated reports.

a weapon. During the trip, Ismael Dimas made assignments:⁶ Rivas, Ismael Dimas, Bolanos, and "Julio" were to do the shooting; "Walter" was to target the National Police guard stationed at the Brazilian Embassy across the street from the cafés; and Morales and the unidentified driver were to remain in the truck and provide cover in case the National Police arrived on the scene.⁷

37. (U) Upon arriving at the Zona Rosa restaurants, the truck stopped in front of Chili's, and the men jumped out. Ismael Dimas started firing at the Americans who were sitting closest to the sidewalk. Rivas, Bolanos and "Julio" followed suit. Rivas was less than six meters from the victims when he fired 30 rounds at them. "Julio" stepped into Rivas' line of fire and was shot.

38. (U) After the shooting, the men returned to the truck and fled the area. Once out of the Zona Rosa, they removed their camouflage clothing and left the weapons in the truck. Rivas was dropped off at a park in the city.

39. (U) The day after the attack, Rivas went to the *Tapiceria Estrella* late in the day and found Garcia already at work there. Shortly thereafter, Ismael Dimas arrived and the two men conferred regarding the previous night's attack. Ismael Dimas accused Rivas of shooting "Julio" intentionally, saying there was bad blood between them.

40. [REDACTED] Rivas continued working at the *Tapiceria Estrella* until he was arrested by the National Guard on August 12, 1985. He was interrogated by local authorities and underwent a polygraph examination by a CIA officer on August 24. A cable from San Salvador Station to CIA Headquarters reported that the test showed that he answered truthfully when he said he had personally participated in the shooting at the Zona Rosa. He showed deception,

⁶ (U) Rivas' testimony about the guerrillas who participated in the attack and their roles changed several times during his imprisonment. The detail in this section is most consistent with information provided by other sources as well.

⁷ (U) During one of his statements, Rivas said Garcia participated in the attack. He later recanted that information, explaining that he had only said Garcia was a participant because the interrogator pressed him on the issue.

however, when responding to questions regarding whether he made inaccurate statements to the police, whether he was withholding information and regarding the others who participated in the attack. Later, Rivas said he did not know who he was supposed to kill—just that U.S. officials were the intended targets. He told police he had never before shot defenseless people.

41. (U) A Salvadoran newspaper described initial judicial procedures against the shooter. On August 27, 1985, Rivas, who already had homicide charges pending for the murder of National Police agents, was remanded to a military judge. The first phase of the judicial investigation was completed on January 21, 1986, when a trial judge found there was legal merit to prosecute Rivas. The case was elevated to the Decree 50 First Instance Court where military and terrorist cases were reviewed and certified for trial.

42. [REDACTED] Embassy officers in San Salvador followed the Rivas' case closely and reported by cable to State Department in November 1987 that the judge determined the case fell within the parameters of the general amnesty signed by President Duarte in October 1987 under the Esquipulas II Peace Accords between the Salvadoran Government and the FMLN. According to an interagency report prepared by the U.S. Government for the United Nations Truth Commission, on November 12, 1987, orders were given for Rivas' release. When it appeared that he might be released, the U.S. Government began to investigate the possibility of prosecuting Rivas in the United States for the murder of "internationally protected persons."⁶ Urged by vigorous diplomatic intervention from the U.S. Government, a Salvadoran prosecutor appealed Rivas' release on November 16, 1987. Two months later, the Appeals Court upheld the lower court decision to grant amnesty to the Zona Rosa defendants. The Military Appeals Court sent the case to President Duarte for review as Commander-in-Chief of the

⁶ (U) In its review of the Zona Rosa attack, DoJ attorneys concluded that the U.S. Marines were internationally protected persons, and, as such, punishment for their murders was covered by 18 U.S. Code §1116, "Murder or manslaughter of foreign officials, official guests, or internationally protected persons."

armed forces. On April 11, 1988, however, Duarte overturned the amnesty finding. The basis of Duarte's decision was that the murder of the U.S. Marines was covered by the International Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, which was acceded to by the Salvadoran Government in 1980.

43. [REDACTED] The interagency report further described that defendants' counsel appealed the case to the Supreme Court, but in September 1989, the Court ruled that Rivas' case should be reopened and tried on the basis that he murdered internationally protected persons. The case was remanded to a military court for action. In January 1991, the case was moved to the Court of Second Instance for a ruling on whether civilian or military courts had jurisdiction. The ruling was that the military court should hear the case.

44. (U) Embassy officers who followed the case closely reported in a cable to the State Department the outcome of Rivas' trial. They reported that on May 2, 1991, Rivas was found guilty of subversive association, cooperation in propaganda, and acts of terrorism resulting in the deaths of several persons. For those crimes, he was sentenced to three, two and 20 years in prison, respectively, with the sentences to run consecutively.

45. (U) A routine appeal was filed for the Zona Rosa defendants, but an appeals court judge upheld the conviction and confirmed the sentences in March 1992. Rivas petitioned for amnesty under the 1992 and 1993 amnesty laws, but both petitions were denied. The 1992 petition was elevated again to the Supreme Court, which upheld the lower court's decision to deny amnesty.

46. [REDACTED] A Salvadoran security service notified San Salvador Station that Rivas remained in prison until 1995 when a new law pertaining to juvenile offenders was passed in El Salvador limiting the sentence of a minor to seven years. The law was applied retroactively, and Rivas, who was only 17 years old when the killings were committed, was released in September 1995. By that time, he had served 10 years and 8 months in prison.

47. (U) **Ismael Dimas Aguilar/"Ulises."** Ismael Dimas Aguilar was known to the guerrilla band by his alias, "Ulises." Co-conspirators Rivas and Garcia described Ismael Dimas as the leader of the commando group that met at the upholstery shop, and he had recruited some of the cell's members into the PRTC. Although Ismael Dimas did not work at the shop, he stopped by every day to meet with cell members. From November 1984 to June 1985, Ismael Dimas and his men planned and carried out guerrilla operations in San Salvador, including attacks on National Police units and privately owned trucks, the takeover of radio stations, an attempted kidnapping, mining of a road, and an unimplemented assassination of a government official. Ismael Dimas was the planner as well as a participant in most of those activities.

48. (U) During his interrogations by the National Guard, Rivas described Ismael Dimas as leader of the cell who was in charge of finances and seemed to have a great deal of money available to him. He was also responsible for the weapons used by PRTC members. When not being used for guerrilla activities, the weapons were buried in barrels in the yard of a house in San Salvador. Ismael Dimas was responsible for collecting the weapons before operations and returning them afterwards. Three days before the Zona Rosa attack, he picked up three M-16 rifles, two Galil rifles, one AR-15 rifle, and one machine gun that were used in the operation.

49. (U) According to the testimony Rivas gave to the National Guard in August 1985, Ismael Dimas was the on-site leader of the Zona Rosa attack. He directed the men in his cell and two other cells, led the shooting and claimed credit for the attack over the insurgent radio station. On June 19, he arranged a final planning meeting of the commandos for early evening at an auto repair shop owned by his brother. Later that night, he directed each of the guerrillas to various locations where they were picked up in a truck. The last stop was the *Café de Don Pedro*. Just before 9:00 p.m., Ismael Dimas spoke privately with Andrade at the *Café de Don Pedro* and received final guidance for the attack.

50. [REDACTED] Ismael Dimas gave last minute instructions as he and the men drove to the Zona Rosa. Upon arriving at the restaurants, Ismael Dimas jumped out of the truck first and began firing at the Marines. He and another shooter then walked through Chili's and adjacent restaurants firing indiscriminately at other patrons. Finally, Ismael Dimas gave the order to return to the vehicle. He picked up the wounded "Julio," deposited him in the truck and they all fled the area.

51. [REDACTED] According to unconfirmed information obtained from Garcia on August 17, 1985, Ismael Dimas was one of the men who delivered "Julio" to the Red Cross for medical attention after the attack.⁹ That same night, at approximately 2:00 a.m., Ismael Dimas took the Zona Rosa weapons to a house in Barrio Santa Ana that was used as a guerrilla meeting place and buried them under the patio. Several weeks later, the guns were transferred by PRTC members to a house in the Colonia Gallegos section of San Salvador where they remained until they were recovered by the police in January 1986.

52. (U) Garcia and Rivas told police shortly after their arrests in August 1985 that on the day following the attack, Ismael Dimas went to the upholstery shop where he discussed details of the attack with Rivas. When Ismael Dimas questioned Rivas about shooting "Julio"--intimating it was intentional because of bad feelings between the two--Rivas denied he was responsible. Ismael Dimas commented, "'Julio' didn't go alone, we also killed the Americans."

53. (U) On September 19, 1985, Ismael Dimas was interviewed about the June 19 attack on Radio Venceremos, a clandestine station operated by the FMLN. He said he participated in the operation and criticized the Salvadoran Government for its ineptitude in investigating the attack.

54. [REDACTED] An August 15, 1985 cable from San Salvador Station to CIA Headquarters described in detail the Salvadoran National Guard arrest of two members of the Mardoqueo Cruz commandos on

⁹ (U) Garcia said that Ismael Dimas and Andrade transported "Julio" to the Red Cross facility. According to a doctor at the Red Cross, three men delivered "Julio" for treatment

August 12. One of them was Ismael Dimas' brother. Under interrogation, he led the authorities to Ismael Dimas' house in the Barrio San Jacinto section of San Salvador. As the National Guard approached the house at 7:00 p.m., Ismael Dimas escaped out the back door. He was never captured.

55. [REDACTED] A Salvadoran security service notified San Salvador Station that five days after the police raid at his house, Ismael Dimas' wife and two children moved to the Bethania Refugee Camp at Zaragoza, an establishment controlled by the PRTC. Ismael Dimas was known to have visited his family and attended meetings with FMLN leaders in the camp during October 1985.

56. [REDACTED] In 1989, authorities learned from Andrade that the Mexican Ambassador to El Salvador had provided asylum to Ismael Dimas in November 1985.¹⁰ Ismael Dimas had been hidden in the Mexican embassy and given aid in escaping from San Salvador.

57. (U) In late November 1985, a PRTC informant told local authorities that Ismael Dimas had died in a Salvadoran Air Force bombing raid on a PRTC camp at the Guazapa Volcano on the evening of November 20-21. During the following months, three additional reports from PRTC members indicated that Ismael Dimas died in the bombing raid or in an ambush by Salvadoran forces that occurred immediately following the raid.

58. (U) Jose Antonio Bolanos Rivas/"Macias." The fourth shooter in the Zona Rosa attack was Jose Antonio Bolanos Rivas, also known as "Macias." Wilian Celio Rivas Bolanos told the National Guard in August 1985 that Bolanos was his cousin, Bolanos was one of the shooters, and they had served together in the PRTC in Cerros de San Pedro before moving to San Salvador to join the Mardoqueo Cruz commandos.

¹⁰ [REDACTED] FBI Headquarters notified State Department in November 1992 that their records showed the Mexican Ambassador admitted he hid Ismael Dimas in the Mexican Embassy shortly after the Zona Rosa attack.

59. (U) Bolanos worked in Abraham Dimas' auto repair shop that also served as a meeting site for one of the three Mardoqueo Cruz cells. Bolanos joined other PRTC guerrillas in sabotage activities in San Salvador in the months prior to the Zona Rosa attack.

60. (U) Rivas further reported to the National Guard that on the afternoon of June 19, Bolanos met at the auto repair shop with the others to coordinate details of the attack. Later that night, Ismael Dimas picked him up in the truck. Bolanos' assignment was to be one of the shooters in the attack. After the initial bursts of gunfire aimed at the Marines, Bolanos and Ismael Dimas walked through the restaurants firing at restaurant patrons who had taken cover during the first hail of bullets.

61. (U) A PRTC member who was captured in January 1986 said at that time Bolanos was in a PRTC camp on the Guazapa Volcano. No other information was developed about his location, however, and he was never captured.

62. (U) Juan Antonio Morales Lucero/"Ruperto." Information provided to Salvadoran police by a captured member of the PRTC led to the arrest of Juan Antonio Morales Lucero on July 13, 1988. After his arrest, Morales, who used the alias "Ruperto," was interrogated by the National Police and described how he joined the Fuerzas Armadas de Resistencia Nacional (FARN), an insurgent group in the FMLN, in 1979. He was taught to handle a G-3 rifle and assigned to a platoon of 25 men in the Cerro de Guazapa area. In December 1983, he moved to the metropolitan area and gradually lost contact with the FARN insurgents. In June 1985, he was recruited by "Walter" to join the PRTC.

63. [REDACTED] After his arrest in 1988, Morales confessed to the National Police his part as look-out in the Zona Rosa operation. Morales' version of the Zona Rosa attack was included in a San Salvador Station cable that was eventually disseminated as an intelligence report on July 20, 1988. During the attack, he remained in the back of the truck to provide cover in case National Police arrived on the scene during the shooting. After the shooting, he was

dropped off at a park. The following day, he went home to Santa Ana. Apart from the driver, he never again saw the others who were involved in the attack. Fifteen days after the attack, the driver told him that the other perpetrators had gone to the Cerro de Guazapa region.

64. [REDACTED] The U.S. Government interagency report to the Truth Commission in November 1992 described judicial procedures brought against Morales. He was charged with subversive association, spreading anarchical propaganda, and planning and carrying out terrorist acts that resulted in the deaths of the eight foreigners (six Americans, one Chilean, and one Guatemalan) at the Zona Rosa. A court found that he was not eligible for amnesty under the 1991 law because the U.S. Marines who died in the attack were persons protected under international law.

65. (U) The U.S. Southern Command *Weekly Intelligence Digest* for August 20-26, 1993 reported on the outcome of the judicial proceedings. Morales' case was heard on August 17, 1993 in a trial that lasted 14 hours. He claimed his earlier confession had been coerced by the police and that he had not participated in the attack. Closing arguments were heard at 11:00 p.m. The jury immediately took up deliberations, and just before 2:00 a.m. returned a verdict of not guilty. They were apparently swayed by Morales' relatively low level of involvement, time already served while awaiting trial (five years) and the fact the Salvadoran military personnel who had been accused of murdering several Jesuit priests¹¹ had been freed under the amnesty law.

66. (U) "Pepe"/possibly Juan Antonio Morales Lucero. Another insurgent who participated in the shooting was known as "Pepe." He was a member of "Walter's" cell that met at the auto repair shop. Garcia told the U.S. Border Patrol that "Pepe" was a name that had frequently been mentioned by Rivas and Ismael Dimas in the upholstery shop. Garcia once heard Rivas say he thought

¹¹ (U) On November 16, 1989, six Jesuit priests, their cook and her daughter were killed near the campus of the University of Central America. At first, the FMLN was blamed. Later, it was discovered Salvadoran military personnel were responsible.

"Pepe" was stupid. However, after the group attacked a National Police truck in February 1985, Rivas changed his mind because "Pepe" proved he was not stupid. Rivas said that, during the Zona Rosa attack, "Pepe" was assigned to remain in the truck with the driver and watch for any National Police vehicles that might respond to the scene.

67. (U) It is possible that "Pepe" and Juan Antonio Morales Lucero are the same person. Morales, by his own admission, remained in the truck with the driver during the attack as Rivas and Garcia said "Pepe" had done. Even though Morales admitted his part in the attack, none of the arrested insurgents mentioned the name Morales as one of the perpetrators. This omission would be consistent with their practice of referring to each other by aliases.

68. (U) "Walter." Zona Rosa perpetrators Garcia and Rivas identified "Walter" as the leader of one of the three cells that made up the Mardoqueo Cruz urban commandos. His cell included "Julio" and several others who were not involved in the Zona Rosa attack. "Walter" participated in sabotage activities in San Salvador with other PRTC commandos in the months prior to the Zona Rosa, including attacks on National Police trucks.

69. (U) Four perpetrators identified "Walter" as a participant in the Zona Rosa attack, but they could not provide his true name.¹² The co-conspirators said "Walter's" assignment was to fire at the policeman who was guarding the Brazilian embassy located directly across the street from the restaurants. This was intended to prevent the police guard from shooting at the guerrillas.

70. (U) According to the account of the attack Rivas gave when he was interrogated by the National Guard, on the night of June 19, "Walter" was already in the truck when it arrived at the *Café de Don Pedro* to pick up the last terrorists. Upon arriving at the Zona Rosa,

¹² Eyewitness reports by Garcia, Rivas and Abraham Dimas were obtained by Salvadoran authorities soon after the arrests of those individuals and were forwarded by San Salvador Station to CIA Headquarters in August and September 1985. Information from Morales was reported in cable format by DoD in November 1988.

he jumped out of the truck and fired at the Brazilian embassy guard. General indications from witnesses at the scene were that the policeman immediately sought cover and did not emerge until after the shooting stopped. "Walter" fled from the scene with the other attackers in the truck.

71. (U) After the shooting, police circulated a composite sketch of "Walter" prepared from eyewitness descriptions. The sketch produced several leads, but they proved to be unproductive.

72. (U) Early leads in the case led President Duarte and the National Guard to announce at an August press conference that "Walter" could possibly be Jose Antonio Lemus Figueroa. Salvadoran officials subsequently discovered and announced publicly that Jose Antonio Lemus Figueroa, who was indeed a member of the PRTC, had been held in Mariona Prison since 1984 and could not have participated in the Zona Rosa attack.

73. [REDACTED] A PRTC member who was arrested in January 1986 told the Salvadoran 5th Brigade Intelligence Unit that "Walter" also used the alias "Fernando Gallardo" and had been at the PRTC camp at the Guazapa Volcano. That same source said "Walter" died in the bombing raid on November 20, 1985.¹³ DoD reported in 1988 that co-conspirator Morales told National Police that he had heard that "Walter" died in combat. No further information became available on the fate of "Walter," and authorities had no traces on his activities after the Zona Rosa attack.

74. (U) Juan Miguel Garcia Melendez. Juan Miguel Garcia Melendez furnished the Treasury Police with details about his involvement in the PRTC after his arrest in 1985. He became a PRTC member in October 1980 and was a combatant in the San Felipe and Cerro de Guazapa regions. He was assigned to work for the PRTC in San Salvador because his skill as an upholsterer supported the

¹³ [REDACTED] Information obtained by the Salvadoran military from PRTC member Jose Anibal Masferrer Valladares was shared with San Salvador Station and forwarded to CIA Headquarters via cable on January 18, 1986. The disseminated intelligence report was released on the same day.

PRTC's use of an upholstery shop as a cover for PRTC meetings. He met Ismael Dimas, Andrade and Rivas when he moved to the city in November 1984. At the time of the attack, he was 19 years old.

75. (U) Garcia claims he did not participate in the Zona Rosa attack and was at home when it occurred. He was cognizant, however, of PRTC activities that were planned at the upholstery shop, and he ran errands for the group. He was present when the insurgents were talking about the Zona Rosa attack, and, on the day following the attack, he overheard Ismael Dimas and Rivas as they discussed the mission.

76. (U) A month after the Zona Rosa attack, Garcia says he quit work at the *Tapiceria Estrella* because he was afraid of the activities in which Rivas was involved. He traveled to Tijuana, Mexico by truck. From there, he slipped across the border into the United States on August 4. He was part of a large group of illegal aliens that was apprehended by the U.S. Border Patrol near Spring Valley in the vicinity of San Diego, California.

77. (U) During his detention, Garcia told the Border Patrol he had information concerning the murder of U.S. Marines in El Salvador. He was interviewed by a Border Patrol intelligence agent who passed the information to U.S. intelligence services and U.S. officials in San Salvador.

78. (U) Garcia volunteered to return to El Salvador, and he was deported from the United States on August 16, 1985. Upon his arrival at the airport in San Salvador, he was arrested by the Salvadoran Treasury Police. Statements Garcia made to Salvadoran authorities differed in many respects from the version he told the U.S. Border Patrol, but the main difference was that he told the Salvadorans that he had actually participated in the Zona Rosa attack. When he was asked to reconstruct the events at the scene of the shooting, however, he was not able to do so. Eventually, he said he only told the police that he was a participant after prolonged interrogations during which he was physically abused. He confessed to having fabricated the account of his involvement based on

conversations he overheard of plans for the attack and PRTC members' comments afterwards. Rivas, the shooter, finally agreed that Garcia was not a direct participant in the attack. Another informant within the PRTC said that Garcia only served the PRTC by running errands and was not involved directly in the shootings.

79. (U) An Embassy cable to the State Department on January 26, 1986 described progress on Garcia's trial after he was turned over to the military courts for prosecution. His case proceeded through the court system together with those of co-conspirators Rivas and Abraham Dimas. After the initial judicial investigation, which lasted six months, the case was remanded to the Decree 50 First Instance Court for trial. Garcia's testimony before the judge and confession of his knowledge of the Zona Rosa attack were duly ratified. The case moved slowly because Garcia initially did not have a defense attorney and there were few judges to hear cases on crimes of terrorism.¹⁴

80. [REDACTED] State Department officers at the Embassy determined from sources in the Salvadoran judicial system that Garcia was being considered for release under the 1987 general amnesty law in November 1987. At that time, the U.S. Government became involved in determining whether action could be taken against Garcia in U.S. courts. He was interviewed by representatives of DoJ, State Department and the FBI who traveled to San Salvador in February 1988. The U.S. Government conclusion was that there was not enough evidence to proceed with legal action against Garcia within the United States. President Duarte overturned the amnesty finding of two courts, however, and Garcia remained in prison.

81. (U) Embassy officers following the case reported by cable to State Department that, in April 1988, the case moved to the Salvadoran Supreme Court in an appeal of Duarte's decision. The Supreme Court heard the appeal in September 1989 and ordered the

¹⁴ (U) Salvadoran judges who heard cases of terrorism or human rights violations were in danger of assassination by the supporters or enemies of those being tried. Consequently, few judges were either available or willing to try such cases.

case reopened on the basis of the U.S. Marines' status as internationally protected persons. The case was eventually remanded to a military court for trial.

82. (U) On April 7, 1991, Garcia was found guilty of subversive propaganda, subversive association and acts in support of terrorism. He was sentenced to 11 years in prison. The attorney for the defense appealed the sentence, and it was reduced to seven and one-half years. Garcia completed his jail term and was released in February 1993.

83. [REDACTED] Pedro Vladimir Rodriguez Guardado/"Mauricio." A PRTC weapons cache was discovered on January 17, 1986, when Pedro Vladimir Rodriguez Guardado, also known as "Mauricio," was arrested. The National Guard raid on Vladimir Rodriguez's house was reported by San Salvador Station in an intelligence report disseminated on January 21, 1986. His residence was used as a storage site for PRTC weapons, including those used in the Zona Rosa attack. The weapons were buried in barrels under two feet of soil in the yard of the home that was occupied by Vladimir Rodriguez, his father and younger sister and brother. Vladimir Rodriguez had been recruited into the PRTC by Ismael Dimas when he was 15 years old, just two months before the Zona Rosa attack.

84. (U) Vladimir Rodriguez described to the National Guard how, five days before the Zona Rosa attack, Ismael Dimas told Vladimir Rodriguez to prepare three M-16 rifles, two Galil rifles, one AR-15 rifle, one submachine gun, and two hand grenades to be picked up later. Two days later, Ismael Dimas and Andrade picked up the weapons. That was the last time Vladimir Rodriguez saw the two men. The weapons were returned to the house several weeks later by two PRTC members who were not directly involved in the Zona Rosa attack.

85. [REDACTED] The Salvadoran security service reported to San Salvador Station that, after Vladimir Rodriguez's arrest, he was held in the Marion Prison and his case was turned over to a military

judge for the initial phase of the investigation. As of March 26, 1987, he was still held in prison. No information was provided to CIA after that date regarding his ultimate fate.

86. (U) **Pedro Rodriguez/"Raul."** Pedro Rodriguez, also known as "Raul," supported PRTC activities by storing weapons at his home in San Salvador. After his arrest, Vladimir Rodriguez, the son of Pedro Rodriguez, described to the National Guard his father's role as an accessory in PRTC activities. Pedro Rodriguez's responsibilities included storing, cleaning and guarding the weapons used in terrorist operations. In exchange, the PRTC paid the rent on the house. Living with Pedro Rodriguez was his son, Vladimir Rodriguez, also a PRTC member, and two younger children who were not cognizant of the guerrilla activities. Either Pedro Rodriguez or his son were at home with the weapons at all times.

87. (U) **Vladimir Rodriguez** said "Julio" stayed with the Rodriguezes for several days in March 1985 when he first moved to San Salvador from the Guazapa front. Vladimir Rodriguez further reported that his father dealt with Ismael Dimas, Andrade and "Walter" when they delivered or picked up weapons for commando operations. When the National Guard raided the house on January 17, 1986, the cache of weapons included 15 rifles, shotguns, pistols, and more than 3,000 rounds of ammunition.

88. (U) **Pedro Rodriguez** was not at home when the National Guard raided his house. Neighbors reported later that he returned during the raid, saw what was happening, and left the area. Salvadoran authorities failed to discover his whereabouts, and he was never captured.

89. (U) **Jose Abraham Dimas Aguilar.** Jose Abraham Dimas Aguilar was the brother of Ismael Dimas, and he operated the auto repair shop that was used by one of the commando cells as a meeting place. According to his statement at an August 1985 press conference sponsored by Salvadoran authorities, Abraham Dimas was a PRTC member but was not a combatant and did not participate directly in the Zona Rosa attack. He ran the cell that met in his auto repair shop

and assisted the two other cells with support activities. Abraham Dimas knew of plans for the Zona Rosa attack at least five days in advance, and he aided one of the shooters after the attack. He was 29 years old when the Zona Rosa attack took place.

90. (U) After he was arrested by the National Guard on August 12, 1985 at his auto shop, Abraham Dimas led authorities to his brother's house.¹⁵ Even though Ismael Dimas was at home when the police arrived, he managed to escape.

91. (U) State Department included an update of Abraham Dimas' case in its cable to all diplomatic posts in June 1991. The cable reported that Abraham Dimas was charged with acts in support of terrorism and was committed to Mariona Prison. The cases of co-conspirators Rivas and Garcia were joined with Abraham Dimas' case, and they passed together through the judicial system. After being moved through several civilian and military courts and after various amnesty appeals were denied, Garcia's case was heard in 1991. On May 2, he was found guilty and sentenced to four years in prison. He was released on March 10, 1992, after serving six years and seven months.

92. [REDACTED] **Pedro Antonio Andrade Martinez/"Mario Gonzalez."** The CIA Station in San Salvador began to inquire into the connection of Pedro Antonio Andrade Martinez, known by the alias "Mario Gonzalez," to the Zona Rosa attack immediately after it occurred. Andrade came under scrutiny because he was the known leader of the PRTC Metropolitan Front, a unit of which had carried out the attack.

93. (U) Americo Mauro Araujo Ramirez (who was also known within the insurgency as Mario Americo Duran), Sub-Secretary General of the Communist Party of El Salvador, one of the FMLN factions, was arrested by the National Police in August 1985. Araujo told police that Andrade devised the plan for the Zona Rosa attack without coordinating it with the rest of the FMLN general command.

¹⁵ [REDACTED] A report of the National Guard raid was described in a disseminated intelligence report that was prepared by San Salvador Station and disseminated on August 15, 1985.

Araujo met Andrade frequently in the Zona Rosa, and they noticed that some of the patrons were U.S. Embassy Marine security guards. Andrade joked that the Marines would make a good target for an attack.

94. (U) During Garcia's extensive debriefing after his arrest by U.S. Border Patrol agents, he described sketchy details of guerrilla operations that he had overheard in the upholstery shop. He said the insurgents mentioned Andrade was the commander of several participant cells, Andrade was the "key figure," and Ismael Dimas had to do everything Andrade asked of him.¹⁶

95. (U) When Garcia was deported to El Salvador and arrested by the Treasury Police, he said that, when he moved to San Salvador, Ismael Dimas had introduced him to Andrade, who was head of several guerrilla cells in the city. According to Garcia, it was Andrade's idea to use an upholstery shop as a cover for PRTC activities. Garcia reported that Ismael Dimas said on June 14 that an operation to kill Americans was being planned with Andrade and "Julio" doing the casing.¹⁷

96. (U) Rivas told police soon after he was arrested in August 1985 that Andrade, who was overall commander of the three squads, ordered Ismael Dimas to undertake the Zona Rosa attack. During subsequent interrogations, Rivas told the National Police that Andrade met the guerrillas at *Café de Don Pedro* on the night of the attack. He arrived in a Lancer model car, talked with Ismael Dimas privately and drove away. Rivas said Andrade was not present during the actual shooting. Abraham Dimas stated at a press conference arranged by the police in September 1985 that he knew Andrade, "Walter" and Ismael Dimas had been planning an action just prior to the Zona Rosa attack. Vladimir Rodriguez, who maintained the weapons cache for the PRTC, said Andrade and

¹⁶ (U) Garcia only knew Andrade by his alias "Mario."

¹⁷ (U) During interrogations with the Treasury Police, Garcia said he participated in the attack, but it was later determined he was not on the scene. He claimed he made up the story of direct involvement because he was coerced by the police.

Ismael Dimas delivered various rifles, pistols and explosives to him on May 1 and collected some of them a few days before the attack.

97. (U) PRTC finance chief Jose Anibal Masferrer Valladares was arrested in January 1986. At that time, he said Andrade went to Mexico in August 1985 following the Zona Rosa attack. Masferrer identified Andrade as Chief of the PRTC Metropolitan Front and "intellectual author of the 19 June 1985 Zona Rosa massacre." PRTC member Maria Elba Alvarado Martinez, who was arrested by the National Guard on July 14, 1987, lived in a house that was used by PRTC members for meetings and to cache weapons. She rented the house on orders from Ismael Dimas. From February through May 1985, she said the house was used frequently for meetings by Andrade, "Julio," Bolanos, "Walter," "Pepe," Rivas, and Ismael Dimas.

98. (U) According to captured PRTC documents dating to approximately June 1988, Andrade did not have the full confidence of the PRTC Central Committee. A letter, written in code by the Central Committee Secretary to other committee members, complained about Andrade's behavior and made recommendations to "rehabilitate" him. Among other complaints, the letter listed the following:

- ◆ Andrade repeatedly threatened to resign from the party.
- ◆ Andrade does not have the PRTC's interest at heart.
- ◆ When all goes smoothly, Andrade is a good party member, but when there are problems, he flies off the handle.
- ◆ Andrade acts as an individual rather than a party member and takes personal credit for the work.

99. (U) Axel Armando Orellana Mena, PRTC Military and Political Commander and PRTC Central Committee member, was arrested on April 11, 1989, and voluntarily provided information about PRTC operations and members to Salvadoran authorities. Orellana's information led to the capture of seven insurgents and confiscation of weapons and explosive materials. He said the Zona Rosa attack was planned and executed by Andrade. According to Orellana, his information about Zona Rosa came from a report Andrade himself prepared. Orellana surmised that Andrade's motive

for the attack was the major role of the United States in the Salvadoran civil war. Orellana believed Ismael Dimas surveilled the Marines and designed the basic attack plan, a plan that Andrade refined. Orellana further reported that, immediately after the attack, Andrade helped the perpetrators escape the country. Andrade then fled to Mexico where he stayed for about one year. Orellana's information led to Andrade's capture by the Salvadorans on May 28, 1989.

100. [REDACTED] Immediately after Andrade's capture by the National Police, he stated that he would not talk unless three conditions were met:

- ♦ His capture was to be publicized;
- ♦ His family's safety and safe conduct to the United States were to be guaranteed; and
- ♦ He was to be permitted to talk with a representative of the U.S. Government.

The CIA Station in San Salvador speculated that the last condition was levied because Andrade wanted to divulge information about FMLN activities but feared the National Police was infiltrated by FMLN members or because he wanted to strike a deal with U.S. officials over his case. When subsequently pressed by Salvadoran police regarding precisely why he wished to talk with a U.S. Government representative, Andrade said this was no longer necessary.

101. (U) When Andrade was arrested, his wife and children were also taken into custody. This was consistent with Salvadoran practice. In exchange for their freedom, on May 30, 1989, Andrade led Salvadoran troops to the largest weapons cache ever captured in the history of the insurgency. At three different sites in San Salvador, police found a total of 343 AK-47 rifles, explosives and one-half million rounds of ammunition. Andrade claimed he would pass along equally important intelligence information, but he wanted guarantees from the Salvadoran Government that he would not be put on trial in the United States.

102. (U) Andrade's version was that he was one of four PRTC members who planned the Zona Rosa attack. He identified Jose Manuel Melgar, PRTC Political Commission member, as the primary organizer of the plan. Melgar went to San Salvador from Guazapa in May 1985 and began directing activity of the Mardoqueo Cruz cells. The Zona Rosa attack was Melgar's idea, said Andrade. Melgar collected information for the attack, including data on the Marines; coordinated with other perpetrators; and designed each team's tasks. Emerson Rivas, PRTC Political Commission member, was to obtain the weapons and set up the routes to and from the Zona Rosa. Ismael Dimas handled the operational planning and directed the attack itself. Andrade was assigned the responsibility for arranging support bases and contingent medical care.

103. (U) According to Andrade, he met with Ismael Dimas on June 15 or 16 and discussed security arrangements and the problems they were having in obtaining medical support. Ismael Dimas told Andrade that the safehouse arrangements had been taken care of, but there was still no medical support, and this aspect was vital because they were expecting a significant confrontation. According to Andrade, Ismael Dimas still did not tell Andrade any details of the operation being planned. Melgar met with Andrade on June 19 to discuss the need for medical services and directed him to meet with Ismael Dimas later that day. Andrade went to the *Café de Don Pedro* at 5:00 or 6:00 p.m. There, he met Ismael Dimas and told him he had not been able to acquire medical services for the group. Andrade claimed he still did not know about the operation that took place later that night.

104. (U) In addition to the four planners, Andrade named three men who actually took part in the attack: Ismael Dimas (whom he referred to by the alias "Cesar Guevara," an alias not known to other PRTC members), "Julio" and Misael Cruz. Misael Cruz may have been another alias for "Walter." All three of these men had died before Andrade was arrested. He did not mention any participation by the five individuals who had been arrested previously and charged as perpetrators.

105. (U) Andrade further told the Salvadorans that he talked with Melgar on June 20 when Melgar told him things had become serious and the group had gone too far. Melgar reportedly told Andrade that "Julio" had been wounded in the attack and taken by Ismael Dimas to the Red Cross for help. Melgar further advised that the PRTC would issue a communiqué concerning the operation and that Andrade should not contact any of the cell members until Melgar gave his approval.

106. (U) Andrade stated further that PRTC Political Commission member Jose Mario Lopez Alvarenga directed him to travel to Mexico in mid-July to discuss the Zona Rosa attack. While there, Andrade told Lopez that he did not know the details of the attack since he did not participate, and he referred Lopez to Melgar as the director of the operation. Andrade traveled to Cuba in August 1985 and met there with PRTC Leader Francisco Alberto Jovel Urquilla who also wanted to hear about the operation. Andrade said he told Jovel, too, that Melgar had gone to the metropolitan area and assumed the lead in carrying out the operation.

107. [REDACTED] On July 5, 1989, U.S. Embassy personnel arranged for Andrade to be subject to a polygraph examination administered by the Salvadoran Special Investigative Unit (SIU). San Salvador Station filed a report of the polygraph session in July 1989 with CIA Headquarters. The SIU had been trained in polygraph techniques by the FBI. The test included questions about Andrade's participation in the Zona Rosa attack and the roles of other perpetrators. The SIU polygraph results indicated that Andrade was being truthful when he said he did not secure weapons for use in the attack; he did not visit a safehouse on or about June 15 to prepare weapons for use in the attack; he recognized a picture of Rivas as being a PRTC member; and he did not recognize a picture of Garcia that was shown to him.

108. [REDACTED] Andrade's SIU polygraph results were judged to be "inconclusive" as to his responses that: he did not participate in planning the attack; he was not present during the shooting; and he

did not arrange for medical services or secure a safehouse for the operation. The SIU polygrapher qualified the test results by explaining that Andrade was recovering from a cold and still had a cough. Because of this, Andrade was scheduled to take a second test two weeks later. The SIU polygraph results were to be sent to the National Academy of Lie Detection for quality control review.

109. [REDACTED] A second polygraph examination was conducted by the SIU on July 20 to review the areas that were previously deemed "inconclusive." According to SIU information that was eventually provided to San Salvador Station, the results of this polygraph supported the truthfulness of Andrade's responses in the following areas: he was not present during the attack; he did not arrange for medical services or a safehouse for the operation; and he did not participate, individually or with others, in planning the attack. Thus, the SIU polygraph results concluded that Andrade was truthful in stating that he had not participated in planning the attack even though, according to Andrade's own statement to the Salvadoran police, he was one of four planners of the attack.

110. [REDACTED] In January 1990, the Agency's San Salvador Station reported that the Salvadoran Government had promised Andrade that the time he had already served in detention would be considered sufficient penalty for the crimes for which he had been arrested.¹⁸ This promise was contingent upon Andrade's full cooperation in debriefings regarding the FMLN and PRTC.

111. [REDACTED] In March 1993, the United Nations Truth Commission for El Salvador issued an unclassified report regarding its investigation into the Zona Rosa attack and 30 other acts of violence committed by both sides during El Salvador's civil war. According to the report, Andrade was tried in 1989 on charges of complicity in the Zona Rosa attack before the Third Court of Criminal

¹⁸ (U) These crimes did not include charges in connection with the Zona Rosa attack. Under Salvadoran law, the testimony of co-conspirators—Rivas, Garcia, Abraham Dimas—could not be used against Andrade because it was considered mere hearsay.

Proceedings.¹⁹ The report did not explain the outcome of the trial but stated that Andrade was freed under the 1987 amnesty.

112. [REDACTED] The Truth Commission report stated there was credible information that Andrade played a larger role in the Zona Rosa attack than he had admitted to, and that he personally selected the targets of the attack. The report concluded that Andrade was one of the planners of the attack based on the fact that he confessed in court to having prior knowledge of it. According to the Truth Commission report, Andrade admitted that he prepared a safehouse to provide medical treatment and shelter to individuals wounded in the attack. This contradicts both the statements Andrade made to the National Police and the SIU polygraph results that judged him to be truthful when he denied any involvement in the Zona Rosa attack.

113. (U) On June 28, 1990, Andrade traveled to Miami under a parole that was granted to him by the U.S. Government.²⁰ Information from other U.S. agencies indicates he currently resides in New Jersey with his wife and children.

114. [REDACTED] Romeo Gilberto Osorio/"Gerardo Zelaya." Romeo Gilberto Osorio came to the attention of the Agency's San Salvador Station within days of the Zona Rosa attack. On June 28, 1985, the Station requested that CIA Headquarters and the FBI run name traces regarding "Gerardo Zelaya," who had been identified in captured PRTC documents as a PRTC member from San Francisco, California. In response, the CIA and FBI [REDACTED] identified "Zelaya" as being an alias for Romeo Gilberto Osorio, an American citizen of Salvadoran ancestry who had served four years in the U.S. Air Force and was honorably discharged in 1970. Osorio, who was then the gallery curator at the Mission Cultural Center in San Francisco, had been arrested in connection with a take-over of the

¹⁹ (U) The Truth Commission's report that Andrade was tried for charges relating to involvement in the Zona Rosa attack contradicts information from the Embassy in San Salvador that Andrade was not tried for crimes relating to the attack.

²⁰ (U) Andrade's airplane ticket was prepared for travel on June 28, 1990, but no other evidence has been found to verify the actual date he entered the United States.

Salvadoran Consulate General in San Francisco in 1978. An Assistant U.S. Attorney had declined prosecution of Osorio at that time.

[REDACTED]

116. (U) In May 1995, Osorio appeared on a segment of the *60 Minutes* television show and discussed the role of U.S. military advisers in the Salvadoran civil war. Osorio described how the insurgents' fight against the government was made more difficult because of the U.S. military presence and said, "I mean it was them or us. So we made it a point to target some American servicemen in order to make a point to the Congress and to have them take a second look about what was going on." *60 Minutes* narrator Ed Bradley said during the broadcast that Osorio had helped plan the assassination of four Marines at an outdoor café in the Zona Rosa. Osorio did not state, however, that he participated in the Zona Rosa attack, either directly or indirectly, and no evidence has been found in CIA records to indicate that Osorio was involved.

Issue: "What role [CIA] has played in the investigation of the murders, and what priority has been placed on the investigation."

117. [REDACTED] CIA personnel reacted immediately to the Zona Rosa attack. Two minutes after midnight on June 20, 1985, a "Flash" precedence cable from San Salvador Station notified CIA Headquarters of the attack. This was the first report to Washington of the incident from any agency represented at the Embassy.

118. [REDACTED] The day following the attack, officers in the CIA Headquarters' Central American Task Force (CATF) participated in a Washington, D.C. meeting of the Regional Interagency Group. The

purpose of this meeting was to discuss each agency's response to the killings and to plan actions pertinent to President Reagan's June 20 statement pledging assistance to find and punish the killers and an anticipated National Security Decision Directive ordering that such assistance be provided. The CIA representatives explained the Agency's intentions to enhance and expedite intelligence support to the maximum degree possible. This would include information exchange with the Salvadorans, assistance in collection programs and training, including anti-terrorist capability training. The CIA participants reported that the Agency's San Salvador Station had already proposed several steps to enhance information collection to identify the perpetrators [REDACTED]

[REDACTED] and assisting the Salvadoran services that were directly involved in the investigation.

119. [REDACTED] The Chief of Station (COS) of San Salvador Station at the time recalls that the killing of the American Marines galvanized Station personnel. Many Station officers were friends of the Marines and had a personal interest in finding the killers. Pursuit of the perpetrators became the absolute top priority of the Station. Everything else was put in second place. According to the COS, the Station's urgency in working on the Zona Rosa killings brought about needed cooperation among the various Salvadoran services, and between them and the Station. The COS says he also was able to arrange for extra help from the Defense Intelligence Agency's Central America Joint Intelligence Team (CAJIT); the U.S. Marine Corps; elements of the U.S. Southern Command; and CIA Headquarters, including the first assignment of a Directorate of Intelligence analyst to San Salvador Station.

120. [REDACTED] On June 21, a San Salvador Station cable sought Headquarters' support for its activities by requesting all available information concerning the PRTC, especially the Mardoqueo Cruz urban commandos. The Station cable noted that it wished to "leave no stone unturned in pursuing this organization." A subsequent June 25, 1985 cable advised Headquarters that the Station had formed a special joint PRTC Task Force to serve as a centralized analytical

and operational working group and obtain operational information leading to the capture of members of the PRTC Mardogeo Cruz commandos.

[REDACTED]

[REDACTED] All Salvadoran intelligence services were persuaded by the COS to participate. As the senior U.S. intelligence officer and the DCI's representative, the COS also coordinated the San Salvador efforts of the other pertinent U.S. intelligence entities.

121. [REDACTED] For its part, CIA Headquarters coordinated closely with the State Department. State Department asked that the PRTC Task Force be the focal point and the channel for all U.S. support to the Salvadoran security services working on the Zona Rosa case. A CATF officer also ensured that the FBI, which had declined to participate directly in the effort in El Salvador, was provided with all CIA information regarding PRTC members who were believed to be in the United States.

122. [REDACTED] The PRTC Task Force maintained a high level of activity and kept CIA Headquarters closely informed of its work through a series of Task Force reports. The contents of these reports varied from a request for more aerial photographic coverage of suspected PRTC base camps to an announcement of the inauguration by El Salvador's Directorate of National Intelligence (DNI) of a database regarding PRTC members. Details concerning various PRTC leaders are also included in these reports. The reports included "Mario Gonzalez" (later to be identified as Andrade), who was noted as a PRTC Metropolitan Front member, and "Gerardo Zelaya" (eventually identified as Gilberto Osorio).

[REDACTED]

123. [REDACTED] Part of the PRTC Task Force was based in the Salvadoran DNI Headquarters. A Station officer assigned to the Task Force describes its work as follows:

On the Thursday [the day] following the Zona Rosa attack, I was in the office all day. Everyone in the Station began to work "flat out" in response to the attack. The Station set up the PRTC Task Force at the DNI: [CIA Directorate of Intelligence] analysts, intelligence officers from the U.S. Army [REDACTED] Military Intelligence Detachment, and U.S. Marine Corps analysts augmented the Task Force staff. Prior to the establishment of the Task Force, the Salvadoran services would not permit its officers to work on captured documents for fear they would be corrupted by Marxist propaganda. As a result, the documents, of which there were many, had not been used. The PRTC Task Force changed that philosophy into one of thoroughly exploiting the documents. Through analysis of documents, the Task Force was able to form an Order of Battle for the PRTC and "X"ed out the names of suspected perpetrators of the Zona Rosa attack and PRTC leaders as liaison and military action was successful against them.

124. [REDACTED] A CIA officer [REDACTED] says that the COS made the decision to "go after the PRTC" and "pulled out all the stops" in this effort. All other work [REDACTED] stopped, and total concentration was directed at locating the PRTC base camps.

125. [REDACTED] On August 3, 1985, the COS provided Headquarters with a comprehensive report regarding the Zona Rosa inquiry as of that date. The report noted that, if the Station had not organized the PRTC Task Force, the Salvadoran surge effort never would have happened because of bureaucratic problems. The report described two dozen specific operational activities that had been generated mainly by the PRTC Task Force. Included were the investigations of "Mario Gonzalez"—i.e., Andrade—and of Gilberto Osorio, who was then thought to be living in Nicaragua.

126. [REDACTED] When Garcia was detained by the U.S. Border Patrol in August 1985, CIA Headquarters performed name traces for the FBI regarding him and all the perpetrators he implicated. San Salvador

Station also passed lead information provided by Garcia to the Salvadorans. Using this information, the Salvadorans raided the upholstery shop that was used as cover by the terrorists and arrested Rivas. [REDACTED]

127. [REDACTED] The Station, in pursuit of information regarding the Zona Rosa attack, reported to Headquarters on August 20, 1985 that it was pressing all its contacts for the fullest possible reporting of information the Salvadorans had derived from the debriefings of Garcia and Rivas. The Station also reported that it had arranged for a polygraph examination of Rivas to verify elements of the information he supplied regarding the Zona Rosa attack, including his claim of being an active participant.

128. [REDACTED] Throughout the period leading to, during and after the 1985 arrests of Garcia, Abraham Dimas and Rivas, the Station continued reporting to CIA Headquarters regarding the Salvadoran effort. In a review of the Station's performance for fiscal year 1985, CIA Headquarters commented that "[the Station's] ability to respond to crisis situations, such as the Zona Rosa attack, with surge reporting was particularly noteworthy."

129. [REDACTED] With the successful arrests of Rivas, Garcia and Abraham Dimas, the efforts of the Task Force slowed somewhat and were diverted to work on the kidnapping of Inez Duarte, President Duarte's daughter, which occurred on September 10, 1985. Aiding President Duarte in this regard was a high priority for the U.S. Government. However, the Station continued to collect information regarding the Zona Rosa perpetrators who had not been arrested.

130. [REDACTED] In a November 12, 1985 letter to Chairman David Durenberger of the SSCI, DCI William Casey noted that the CIA helped the Salvadoran Government establish a joint task force that "paid a significant dividend." An attachment to that letter mentioned that the PRTC Task Force had focused all available resources on the PRTC to bring the perpetrators of the Zona Rosa attack to justice.

The attachment further noted that the CIA's efforts had led to the arrest of three people involved in the Zona Rosa operation and the confiscation of a large number of documents and arms.

131. [REDACTED] In November 1987, a telegram from the Embassy in San Salvador to the State Department discussed the possible prosecution of the Zona Rosa killers. This telegram reported that the CIA Station "actually did the vast majority of the legwork in the Zona Rosa case."

132. [REDACTED] In January 1986, the Station reported the arrest of Vladimir Rodriguez, who provided a safe site for weapons used by the group. In January 1986, it reported the apparent deaths of "Walter" and Ismael Dimas in a bombing raid at Guazapa Volcano. No record has been found to indicate additional focus on the Zona Rosa attacks by San Salvador Station or CIA Headquarters between late 1987 and the arrest of Andrade by the Salvadorans in 1989. When Andrade was arrested, CIA Headquarters, at the request of the Assistant U.S. Attorney who was responsible for considering possible prosecution of the Zona Rosa case, instructed San Salvador Station not to have any direct part in actively collecting information from Andrade about the Zona Rosa case. The reason for this instruction was to avoid potential complications if any information obtained from Andrade were eventually to be used in a U.S. prosecution.

Issue: "What action has been taken by officials from [CIA] against the perpetrators/intellectual authors of the murders."

133. [REDACTED] CIA action directed against the perpetrators or planners of the Zona Rosa attack can be separated into two categories: actions involving the specific individuals who were involved and actions against the PRTC in general. Specific CIA actions were directed against only two individuals, Garcia and Rivas.

134. [REDACTED] Actions Regarding Garcia [REDACTED] CIA Stations [REDACTED] were in contact with the U.S. Border Patrol, the Naval Investigative Service and the FBI when these organizations

were interviewing Garcia regarding the Zona Rosa attack. CIA Headquarters directed that the officer who met with representatives of the other agencies obtain as much information as possible without directly participating in a criminal investigation or being physically present during interviews. The purpose of this instruction was to avoid having [REDACTED] Agency officer listed as a witness in any future court action. A [REDACTED] case officer explored with the FBI and the Border Patrol the possibility of recruiting Garcia to operate as a penetration of the insurgency, but both the Border Patrol and the FBI pointed out that Garcia did not seem capable of such a role. [REDACTED] Station notified San Salvador Station that Garcia was returning to San Salvador on August 16, 1985. The San Salvador Station, in turn, notified the Salvadoran authorities, and Garcia was arrested when he landed at the airport in San Salvador. The Station was instrumental in Garcia's arrest both by providing the Salvadorans with information about his return and by energizing the Salvadorans to take quick action in this regard.

135. [REDACTED] Actions Regarding Rivas. The Salvadorans arrested Rivas on August 12, 1985. This action was based upon information provided to them from Garcia's revelations to the U.S. Border Patrol that had been provided to the Salvadoran service by San Salvador Station. The Station was further involved directly concerning Rivas on August 24, 1985, when CIA officers were allowed by the Salvadorans to interview Rivas and administer a polygraph examination to him to clarify his degree of culpability and the veracity of the information he had provided to the Salvadorans. The results of the examination, which was conducted with the knowledge and approval of CIA Headquarters, confirmed his guilt.

136. [REDACTED] Actions Regarding the PRTC in General. Other potential CIA actions against those responsible for the Zona Rosa attack were discussed immediately after the killings took place. At the June 21, 1985 interagency meeting in Washington, steps were discussed to implement President Reagan's statement promising U.S. assistance to the Salvadoran Government in finding and punishing the Zona Rosa terrorists. CIA representatives stated that the Agency would enhance and expedite intelligence support to the Salvadorans

CHRONOLOGY OF SIGNIFICANT EVENTS

1985

- June 19 The Zona Rosa attack occurs. Four Marines, two U.S. businessmen and six Latin Americans are killed by insurgents.
- June 21 The Central American Revolutionary Workers Party (PRTC) claims credit for the attack in a telephone call to a San Salvador newspaper.
- June 24 San Salvador Station forms a PRTC Task Force to work exclusively on the Zona Rosa incident.
- July 9 President Reagan signs a National Security Decision Directive in response to the Zona Rosa attack, including direction to the DCI to "undertake an expanded program of improved intelligence support to El Salvador."
- August 8 The CIA learns of U.S. Border Patrol apprehension of Juan Miguel Garcia Melendez and receives an initial debriefing on his knowledge of the Zona Rosa incident.
- August 12 Wilian Celio Rivas Bolanos and Jose Abraham Dimas Aguilar are arrested.
- August 16 Garcia returns to El Salvador and is arrested.
- September 2 Chairman of the Joint Chiefs of Staff presents President Duarte a letter from President Reagan congratulating Duarte on success against the PRTC.

1986

- January 17 A Salvadoran National Guard raid discovers the weapons used in Zona Rosa attack and captures Pedro Vladimir Rodriguez Guardado, who hid the weapons for the PRTC.

1988

- July 13 Juan Antonio Morales Lucero, who admitted participation in the Zona Rosa attack, is arrested.

1989

- May 28 The Salvadoran National Police captures Pedro Antonio Andrade Martinez.
- May 30 Andrade leads the Salvadoran military to the largest arms cache discovered in El Salvador.

1990

- March 28 State Department personnel at the Embassy request parole authorization from State for Andrade.
- April 25 State Department telegram to Embassy authorizes Andrade's parole.
- June 28 The probable date when Andrade leaves El Salvador and enters the United States.

1991

- May 4 Garcia, Abraham Dimas and Rivas are sentenced by the Salvadoran military court.

1993

- August 18 Morales is found not guilty of participation in the Zona Rosa attack after spending five years in jail awaiting trial.

to the maximum degree possible. This would include information exchanges, assistance in collection programs, and training, including anti-terrorist capability training. Existing legislative and Executive authorities for Agency programs were sufficient for these purposes.

137. [REDACTED] On June 21, 1985, immediately after the PRTC claimed credit for the Zona Rosa attack, San Salvador Station informed CIA Headquarters by cable that it would concentrate its resources "in making life difficult for [the PRTC]." The Station cable stated that Station personnel [REDACTED]

[REDACTED] would leave "no stone unturned in pursuing this organization."

138. [REDACTED] On June 25, 1985, the Station reported to Headquarters concerning the first meeting of the PRTC Task Force it had established to serve as the central analytical and operational focus of the effort to identify and arrest those who were involved in the attack. According to this report, Salvadoran elements of the PRTC Task Force were developing an all-source intelligence assessment regarding the PRTC as a basis for major Salvadoran armed forces military operations. These operations were to be targeted against PRTC field headquarters, training camps and logistical facilities with the intention of inflicting maximum damages in reprisal for the Zona Rosa attack.

139. [REDACTED] The Salvadorans, with encouragement and enhanced intelligence [REDACTED] services from San Salvador Station, conducted attacks on PRTC camps with air-mobile units, ground forces and bombings. This Salvadoran military activity reportedly resulted in increased rebel casualties, sufficient pressure to force the PRTC to move out of its main base area, the removal of PRTC members from San Salvador to the rural front, and the reported deaths of cell leaders Ismael Dimas and "Walter." The military actions also resulted in the deactivation of the Mardoqueo Cruz urban commandos and an affirmative decision by the FMLN leadership not to kill any more Americans.

140. [REDACTED] A CIA officer who participated in the PRTC Task Force recalls that the Salvadoran military, supported by intelligence analysis from the Task Force, was quite effective. Before the Zona Rosa attack, the PRTC reportedly had about 300 members. After the concerted intelligence and military effort, the CIA officer states that it was reduced to about half that number. The Salvadorans achieved more success against the PRTC than against any other insurgent group. Because of the small size of the PRTC, the CIA officer states that there simply would not have been such a large scale U.S. and Salvadoran effort against the group if it had not been for the Zona Rosa attack.

Issue: "What dealings, since the murders, [CIA] has had with the Government of El Salvador on this matter, and whether in the course of that relationship the Salvadoran government demonstrated an aggressive effort to identify, prosecute and incarcerate the perpetrators/intellectual authors."

141. [REDACTED] Traditionally, rivalry between the Salvadoran services had limited their effectiveness. [REDACTED]

[REDACTED] When the Station acted to form the PRTC Task Force on June 24, 1985, it expended considerable effort to persuade them to cooperate in that forum. The services agreed to bring to the PRTC Task Force all of the records each had on the PRTC. Throughout the effort, the PRTC Task Force assigned leads to whichever of the Salvadoran services appeared to have the best chance of producing results.

142. [REDACTED] Station officer who was in charge of the Task Force says:

The Salvadoran cooperation was as good as one could expect [REDACTED]
[REDACTED] The cooperation with the Salvadorans at this time was probably at its height. [REDACTED]
[REDACTED]

[REDACTED]

143. [REDACTED] The Station designed the PRTC Task Force so the Salvadoran services would cooperate to identify and arrest the perpetrators. The Salvadoran Government representatives on the Task Force were members of the DNI, the National Police, the National Guard, the *Estado Mayor*,²² and [REDACTED]

[REDACTED] the Treasury Police.²³ Each service made specific contributions as follows: the DNI Metropolitan Front Referent provided its Chief of Special Projects, the Chief of Analysis, a senior analyst, and two secretaries; the *Estado Mayor* assigned the Chief Analyst and the Chief of the Regional Document Exploitation Center; the National Police furnished its Chief from the Counter Subversive Branch; the National Guard assigned its Chief of the Intelligence Section.²⁴

144. [REDACTED] The Station made a series of almost-daily reports to CIA Headquarters regarding the Task Force operation, especially as regards the activities of the Salvadorans. For example, the following summary describing some of the Salvadorans' activity was included in the PRTC Task Force report covering the first day of its work, June 24, 1985:

The Task Force began by bringing together all available documentary materials on PRTC such as the Nidia Diaz²⁵ documents, National Police reports on interrogations of prisoners, and reports from various informants.

Identification of listings of PRTC members, including true names, pseudonyms, date and place of birth, positions.... Task Force is preparing report on the basis of which military region

²² (U) The *Estado Mayor* was the Salvadoran Armed Forces Joint General Staff.

²⁴ [REDACTED] CIA records do not indicate whether the Treasury Police actually contributed personnel to the Task Force effort.

²⁵ (U) "Nidia Diaz" was a top ranking member of the PRTC who was arrested by Salvadoran forces in April 1985.

commanders and public security forces can undertake investigation and arrest of PRTC members.

Intelligence on PRTC special forces base camps provided by three PRTC [insurgents] to Sixth Brigade is being provided to Task Force.

Documents captured with Nidia Diaz... being prepared in intelligence report format. Attempts underway to contact family members for debriefings....

Investigate interrogation reports that link ERP [another FMLN group] urban elements to the acquisition of information in San Salvador for specific assassination targeting and sabotage. Follow-up to include investigation to determine if ERP may have supported PRTC in 19 June [Zona Rosa attack].

Investigate document containing substance of PRTC Metro Front Regional Committee meeting in Nov 1981 which gives names of PRTC Metro Front attendees and leaders. Attempt to locate family members of these participants through public security service units.

Tactical exploitation: DNI's Chief of Analysis and the *Estado Mayor* C-II [the intelligence section] are developing an all-source intelligence assessment on PRTC as the basis for major military operations targeted against PRTC field headquarters, training camps and logistical facilities with intention of inflicting maximum damage as reprisal.

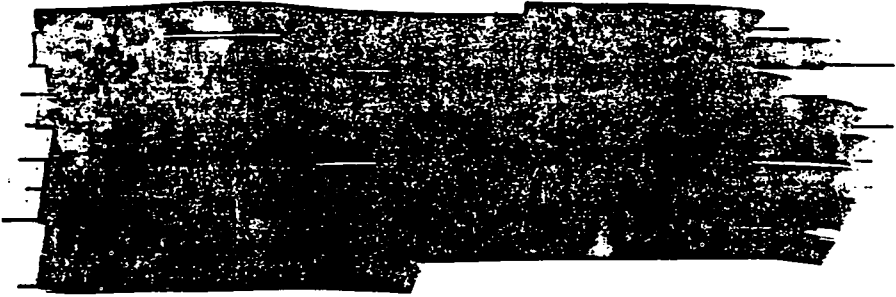
145. ■ During the month following this report, the Salvadorans engaged in a variety of activities focused on the PRTC and on locating the perpetrators of the Zona Rosa attack. Demonstrating the degree of Salvadoran Government interest in the Zona Rosa investigation, President Duarte visited the Task Force, accompanied by the Minister of Defense and the Chief of the Joint General Staff, for briefings on the Task Force's operations. The Salvadorans instituted a media campaign to enlist the public's assistance. Police sketches and written descriptions of three suspected participants in the Zona Rosa attack appeared in all the daily newspapers. A "hot line" number was provided along with a request for Salvadorans to call with information.

146. [REDACTED] Salvadoran leads developed during this period included the mention in captured documents of a "Gerardo Zelaya," identified as Gilberto Osorio, a PRTC member who, according to the documents, was from San Francisco, had received a grant from the Art Commission of San Francisco [REDACTED]

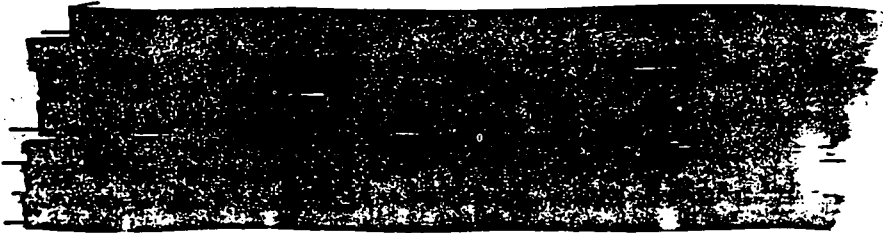
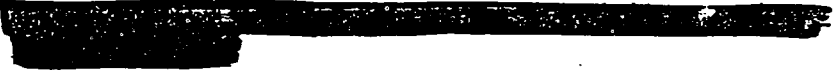
The Salvadorans also captured documents that included a letter signed by "Mario Gonzalez" of the PRTC Metropolitan Front requesting that no more PRTC members be sent to the Front because of the excess of personnel there already. Former FMLN leader Napoleon Romero Garcia, alias "Miguel Castellanos,"--later assassinated by the insurgents for his cooperation with the Salvadoran authorities--helped in making a sketch of "Mario." According to Romero, "Mario" had attended a course with him in Vietnam and had been in San Salvador the previous December.

147. [REDACTED] As of August 1, 1985, six weeks after the Zona Rosa attack and just before Garcia was apprehended by the U.S. Border Patrol, the San Salvador Station COS made a formal report to Headquarters regarding the progress of the investigation. [REDACTED]

148



149. [REDACTED] The National Guard's intelligence section, second after the National Police in resources dedicated to the PRTC, made one officer and 12 enlisted men available to follow-up leads related to the Zona Rosa attack. In his report, the COS observed that the National Guard was quick to act in cases requiring the arrest of PRTC suspects



151. [REDACTED] According to the COS report, immediately after the Zona Rosa attack, the DNI placed continuous coverage on known PRTC communication links and intensified efforts to identify PRTC communications elements. A Salvadoran forward collection team was placed in central San Vicente Department to provide enhanced coverage of PRTC tactical communications and radio direction finding efforts in San Salvador to locate PRTC elements in the capital. The urban direction finding effort was successful in determining the presence of numerous insurgent related emitters, but none had yet been confirmed as PRTC elements nor precisely located at the time of the COS's report. These operations were continued with the PRTC as the priority target.

152. [REDACTED] In an August 15 cable, San Salvador Station reported to CIA Headquarters that the National Guard had raided the upholstery shop, arrested Rivas and followed with the arrest of Abraham Dimas. Garcia was arrested by the Salvadorans when he returned to El Salvador as CIA reported in an August 18 cable. Illustrating the intensity and competitiveness of the Salvadoran services concerning the Zona Rosa investigation, the Treasury Police exerted considerable effort to "beat the National Guard to the airport" so it could make the arrest. The National Guard was assigned responsibility for Garcia, but the Treasury Police wished to claim credit for his apprehension. The Station noted in an August 20 cable to CIA Headquarters that the competition among the various Salvadoran services was intense as each wanted to be first with results.

153. [REDACTED]

[REDACTED] the Salvadorans suffered coordination problems through mid-August 1985, although they continued their fairly good collaboration as participants in the Station-led PRTC Task Force. The National Police was designated the lead agency in the Zona Rosa investigation even though the National Guard was traditionally responsible for investigating the PRTC. Consequently, the National Police did not receive complete support from the National Guard or exercise operational control over National Guard investigative efforts. In addition, the DNI, the 1st Brigade and the 5th Brigade pursued investigative leads independently and without always coordinating with the National Police.

154. [REDACTED]

[REDACTED] In early August 1985, President Duarte's security advisors informed him of the coordination problems in the investigation. On August 10, at Duarte's prompting, the Minister of Defense and Public Security General sent an order concerning the investigation to the Director General of the National Police. Copies of the order were also sent to the Directors General of the National Guard and the Treasury Police, the Chief of the Intelligence Section (C-II) of the Armed Forces Joint General Staff, and the Director of DNI. The order noted that it was

being issued in compliance with instructions from the President. The Zona Rosa case was described as of "singular importance because of the characteristics of the act, the different victims involved, and the terrorist affiliation of the perpetrators." The order directed that several organizational principles be followed, including centralized leadership, coordinated investigation at all levels, command management of informants, and "strict and total cooperation of all the units, of public security or military, regarding PRTC information or captures related to the case"

155. [REDACTED]

Colonel

Lopez quoted the August 10 Duarte order and announced that, in compliance, a unified command had been formed with the responsibility and authority to centralize, analyze, prioritize, direct, and assign missions to the individual security services in order to solve the case as soon as possible. To facilitate solving the case, Colonel Lopez ordered that all PRTC members in custody or subsequently captured were to be immediately turned over to the unified command along with any captured documents, weapons or equipment.

156. [REDACTED]

Colonel Lopez held another meeting with Salvadoran officials who were responsible for the Zona Rosa investigation. He stressed the need for a concerted effort over the next five days because publicity over the capture of Rivas and Garcia would complicate the investigation. Other perpetrators would thereby be alerted to the advanced state of the investigation, complicating further progress. Colonel Lopez also ordered formation of a group to focus on Garcia's and Rivas' information, which included repeat searches of the safehouses, preparation and distribution of sketches of the perpetrators, analysis of interrogation reports of PRTC prisoners, and follow-up contacts with perpetrators' family members.

157. (U) On September 2, 1985, General John Vessey, then-Chairman of the Joint Chiefs of Staff, passed a letter to President Duarte from President Reagan. The letter congratulated Duarte on the Salvadoran Government's success against the PRTC. Duarte, at this public meeting and as reported by the Embassy, responded that "the intensive effort both countries mounted to collect intelligence on the PRTC, and then go after them, was a more productive way to tackle the terrorist problem than simply to look for ways to viscerally lash out at them."

158. (U) The Salvadoran search for the perpetrators still at large continued. On September 10, 1985, however, President Duarte's daughter, Inez, was kidnapped by FMLN insurgents, creating a government crisis in El Salvador. The insurgents used her as a bargaining chip to obtain the freedom of imprisoned insurgent leaders. Salvadoran security and police services concentrated almost all their efforts on the kidnapping.

159. [REDACTED] For the next year, CIA records indicate pursuit of few new avenues by CIA and the Salvadorans regarding the Zona Rosa case. There was considerable continuing action concerning issues relating to the possible prosecution or potential amnesty of those who had been arrested. However, the U.S. Government's involvement in these issues was the principal responsibility of other U.S. agencies.

160. [REDACTED] In May 1989, the National Police arrested Andrade based upon information provided by Axel Armando Orellana Mena, a captured member of the PRTC Central Committee. The Salvadorans provided the Station with intelligence as it was derived from debriefings of Orellana. When Andrade showed where a significant arms cache was located, the National Police provided an inventory of the cache and also gave the Station information from the debriefing of Andrade regarding the source of arms and of PRTC plans to disrupt the inauguration of the new government. From the time of his arrest in 1989 through mid-1990, the National Police held Andrade in custody, cooperated with the Station by providing the

results of its debriefings of him, and made him available to the FBI and the Embassy Legal Officer²⁶ for interviews regarding the Zona Rosa attack.

161. (U) No evidence has been found to indicate continued CIA involvement with the Government of El Salvador on the Zona Rosa attack since 1990, when Andrade was allowed to depart El Salvador and came to the United States.

B. U.S. GOVERNMENT RELATIONSHIP WITH ANYONE KNOWN OR SUSPECTED OF INVOLVEMENT IN THE ZONA ROSA ATTACK

Issue: "What information [CIA] received from the perpetrators/ intellectual authors of the murders."

162. [REDACTED] With one exception, no record has been found to indicate that CIA received any information directly from the perpetrators or the planners of the Zona Rosa attack. That exception is information that was obtained during a San Salvador Station interview and polygraph examination of Wilian Celio Rivas Bolanos after his arrest by the Salvadorans. The Agency did obtain information indirectly from others who were implicated in the Zona Rosa murders in that U.S. Government entities and Salvadoran security and police services provided the CIA with intelligence derived from their interviews and debriefing of the perpetrators. CIA disseminated notable information it received from the Salvadorans in this regard to State, DIA and other U.S. Government intelligence consumers at the time.

163. [REDACTED] **Information Obtained Directly From Rivas.** On August 24, 1985, after receiving the permission of CIA Headquarters, San Salvador Station conducted an interview and polygraph examination of Rivas in order to clarify conflicting information he previously had provided to the National Guard. During the pre-

²⁶ (U) The Embassy Legal Officer in El Salvador was a Foreign Service Officer responsible for dealing with the Salvadorans on legal matters affecting the United States.

examination interview with an Agency polygrapher, Rivas recounted his involvement in the attack, identified others who had taken part in the operation and made a sketch of the murder scene. This information was essentially identical to what he had provided to the National Guard. According to the polygrapher's August 26, 1989 report, Rivas indicated no deception on the polygraph when he admitted that he personally participated in the Zona Rosa shootings. There were indications of deception on the polygraph, however, when he denied that Garcia participated in the attack, that Rivas provided false information regarding who took part in the attack, and that Rivas deliberately withheld information about the attack. There is no indication in Agency records that CIA officers had any contact with Rivas other than at this polygraph session.

164. [REDACTED] Information Obtained Indirectly From Perpetrators.

From 1985 through 1990, CIA received information from various Salvadoran police and military agencies as they debriefed six Zona Rosa perpetrators and accomplices about the attack and other personnel who had information about it. In addition, CIA was provided with reports from the U.S. Border Patrol's interviews with Garcia in 1985.

165. [REDACTED] The most significant intelligence collected from any of the perpetrators or alleged perpetrators on subjects other than the Zona Rosa killings came from Andrade. During the year he was in detention, Andrade provided a large amount of information to the National Police. CIA was provided with this information by the National Police and distributed it to the U.S. intelligence community. Andrade provided most of this information only after the Salvadorans promised him that, contingent on his full cooperation, the time he served in detention would be construed as his penalty for the crimes for which he was arrested, that his family would be provided financial support during his detention and that he and his family would receive financial assistance to relocate outside of El Salvador. The information Andrade furnished the National Police was shared with CIA personnel and formed the basis for [REDACTED] intelligence reports that were disseminated by CIA to U.S. Government consumers.

166. █ Immediately after his arrest, Andrade provided the National Police with his version of his role in the Zona Rosa killings. He admitted his alias was "Mario Gonzalez" and that he was involved in the planning for the Zona Rosa attack. About 10 days later, he furnished more details on his involvement, and these were passed to the Station by the Embassy's Legal Officer who was meeting and interviewing Andrade. The Station cabled the information to CIA Headquarters but did not submit it as an intelligence report because it was Embassy-acquired information. Andrade claimed four men planned the attack, with Jose Manuel Melgar being primarily responsible. Andrade was given the job of setting up safehouses and making medical preparations, neither of which he claims he did. He attended a meeting where other insurgents told him about a restaurant in the Zona Rosa where people of importance, including U.S. intelligence officers, met and where it was possible to carry out a "serious action." Andrade claimed not to have known the target of the planned action in advance, however. According to Andrade, two of the planners, Melgar and Emerson Rivas were close confidants of PRTC leader Francisco Alberto Jovel Urquilla. To protect his friends, claimed Andrade, Jovel put the blame for the attack on Andrade when he discussed the attack with FMLN members.

167. █ Within two days of his capture, Andrade told the National Police about PRTC and FMLN plans for actions relating to the June 1989 inauguration of the Nationalist Republican Alliance (ARENA) government. These actions included attacks on the Salvadoran armed forces and sabotage of electric lines and a hydroelectric substation. Andrade also described a PRTC plan to attack the Legislative Assembly and the Supreme Court, and he gave details of the Mardoqueo Cruz group's command structure.

168. █ Within a week of his capture, Andrade also provided the Salvadorans with information about the source of the materiel found in the arms cache to which he had led National Police on May 30. The arms cache contained rifles, pistols, one half million rounds of ammunition, and explosives and was the largest insurgent

arms cache discovered as of that date. Andrade said the weapons came from North Korea, Cuba, Nicaragua, and the Soviet Union. He described how they were transported overland on trucks that started out in Costa Rica and transited Nicaragua.

169. [REDACTED] Beginning in mid-March 1990, the National Guard began to provide the San Salvador Station with information based on both Andrade's written reports and oral debriefings. The Station worked closely with the National Guard by furnishing it with questions and requirements for use in debriefing Andrade. The first information that was acquired as a result related to the PRTC and FMLN infrastructure in Managua, Nicaragua. A couple of weeks later, Andrade amplified this information with more details about the location of PRTC and FMLN offices in Managua and the location of the radio used to communicate with PRTC units in El Salvador. In mid-April 1990, Andrade provided the Salvadorans with further details regarding the FMLN's presence in Nicaragua, including its use of computers, security practices and relations with the Sandinista leadership.

170. [REDACTED] Andrade also reported information to the Salvadorans regarding the PRTC's metropolitan structure as it existed when the National Police captured him in 1989. He said the Metropolitan Front, which was under the command of the PRTC's Modesto Ramirez Central Front, was divided into three areas of focus: military operations, political operations, and logistics. The military structure consisted of three urban commando teams and two militia teams, one of which was incomplete. The military structure also included front group self-defense forces in the San Salvador suburbs. Andrade also listed PRTC members who worked with front groups and those involved in logistics.

171. [REDACTED] The next report from Andrade that the National Police furnished the Station concerned Cuban support to the FMLN and Sandinista involvement in facilitating Cuban support. He said that Cuban support of the FMLN was handled through Cuba's General Directorate of Special Operations (DGOE). The DGOE planned, coordinated and supervised training and logistical support for the

FMLN and planned FMLN operations against strategic or special targets. Cuban diplomats in Mexico provided funds and documentation, such as visas and false identity papers, to FMLN members. The active involvement of senior Cuban and Nicaraguan officials had been instrumental in allowing the FMLN to continue hostile activities in El Salvador. While Cuba was the center for training, coordination and planning and for storing Soviet Bloc weapons destined for the FMLN, Nicaragua served as the bridge for the flow of materiel into El Salvador. Andrade provided the names of Cubans involved in the logistical support, the senior Cuban who coordinated support to the FMLN and the Cuban diplomat in Mexico with whom the PRTC had contact.

172. [REDACTED] Another of Andrade's reports to the Salvadorans stated that Cuban leader Fidel Castro gave \$1 million to the FMLN in 1988. The reported purpose of this payment was to improve the FMLN's infrastructures and transfer increased amounts of armament into El Salvador.

173. [REDACTED] In late March 1990, Andrade provided the National Police with information about the PRTC's presence and activities in Mexico. He said the PRTC operated a clandestine explosives workshop in Mexico City that produced an explosive similar to TNT. Some of the explosives that were found in the PRTC arms cache Andrade exposed were produced in that workshop.

174. [REDACTED] Andrade also provided information to the National Police regarding the general location of the PRTC Central Front Command Post and identified the staff assigned to the Command Post. He also furnished the names or aliases of the members of the FMLN Joint Central Front Command Structure, which included a senior member from each of the FMLN factions.

175. [REDACTED] In early April 1990, Andrade reported to the Salvadorans concerning FMLN and PRTC communications, especially radio communications and encryption procedures. He also offered insight into the FMLN's knowledge of El Salvadoran armed forces' efforts to intercept and exploit insurgent communications. He

stated that the location of the Salvadoran Communications and Information Processing Center was well known throughout the FMLN and that he had learned about the complex and its function from a Cuban operations officer while in training in Cuba. The FMLN General Command issued guidance as of early 1989, he reported, that the complex was not to be the target of attacks because of the presence of American advisors.

176. [REDACTED] In mid-March 1990, Andrade gave the National Police a detailed description of the PRTC's strategic logistical operation that supplied the PRTC with materiel from Nicaragua. This information included the routes traveled, the types of concealment devices constructed to hide the weapons, a description of the trucks used, and the names of the drivers and others involved in the transportation of the materiel.

177. [REDACTED] In April 1990, Andrade furnished information to the Salvadorans concerning the PRTC's finance system. The PRTC reportedly obtained most of its funds through project proposals submitted to international organizations. Funds received in this manner were deposited in bank accounts outside of El Salvador. He named two priests who assisted the PRTC by presenting project proposals in the United States and Europe and by collecting funds sent to El Salvador from international donor agencies.

178. [REDACTED] In the last report that the Salvadorans shared with the San Salvador Station, Andrade told the National Police about FMLN efforts to infiltrate the El Salvadoran armed forces and named a retired colonel who was recruited by the FMLN in the early 1980s. The colonel reportedly supplied the FMLN with information concerning the infrastructure and functions of the Salvadoran military. Andrade also identified another officer who he said had sold military weapons to the insurgents in 1982. The information on which this report was based was passed to the Station by the Salvadorans in mid-April 1990.

179. [REDACTED] In summary, the San Salvador Station received reports and new information from the Salvadorans between May 30, 1989

and mid-April 1990 that were the result of Salvadoran debriefings of Andrade. No evidence has been found to indicate that the Station ever had direct discussions with Andrade regarding these or any other matters. Reports prepared by the Station from Andrade's debriefings material were provided to CIA Headquarters. [REDACTED] intelligence reports based upon that information were disseminated by CIA to U.S. intelligence consumers.

Issue: "What relationship [CIA] had, either before or after the murders, with the perpetrators/intellectual authors of the murders or other individuals known or suspected to have been involved?"

180. (U) No evidence has been found to indicate that the CIA had any relationship with anyone considered to be a perpetrator or a planner of the Zona Rosa attack, either before, contemporaneous with, or after that attack.

181. [REDACTED] As explained earlier, Rivas, one of the shooters, was the subject of an interview and polygraph examination by a CIA officer shortly after he was arrested in August 1985. This was conducted with the permission of the National Guard, and Rivas signed a consent statement prior to the examination.

182. [REDACTED] Andrade quickly became a target in the search for the Zona Rosa killers because he was a member of the PRTC. Within a week of the murders, the Station identified Andrade (known then only by his alias "Mario Gonzalez") as a member of the PRTC. At that time, the Station's efforts to collect information concerning the Zona Rosa attack included finding out everything possible about all PRTC members whether or not there was any information specifically linking them individually to the killings. From captured documents, Andrade was identified as a member of the PRTC's Metropolitan Front, and he then became of more interest to the Station because a unit of the Front was known to have carried out the attack.

183. (U) After their arrests in mid-August 1985, Garcia and Rivas named "Mario" as the PRTC leader who directed the unit that carried out the murders. At the same time, a separate source identified "Mario Gonzalez" as the man who devised the plan for the Zona Rosa attack. From that point on, Andrade was a target of CIA efforts to bring the perpetrators to justice.

184. [REDACTED] The National Police captured Andrade on May 28, 1989. He immediately became of keen interest to CIA as a potential intelligence source. As mentioned earlier, he led the Salvadorans within days of his capture to the largest arms cache yet discovered. This indicated he had access to useful intelligence. Moreover, he admitted he had some role in the Zona Rosa attack although he did not give specifics at the outset.

185. [REDACTED] To prevent tainting any possible prosecution of Andrade, CIA Headquarters on May 31, 1989 directed the Station not to become involved in obtaining information from Andrade regarding the Zona Rosa attack. On June 1, 1989, Headquarters told the Station that DoJ had advised that, in preparation for any possible prosecution, the Embassy Regional Security Officer or Legal Officer should perform any debriefings of Andrade pertinent to the Zona Rosa case, and the Station should not participate or be present.

186. [REDACTED] The Station expressed a strong interest on June 1, 1989 in directly participating in debriefing Andrade on all topics other than the Zona Rosa attack. On June 2, 1989, the Station formally requested Headquarters approval to do so. Deputy Director of Central Intelligence (DDCI) Richard Kerr approved the Station's request on June 2, 1989, under the condition that the Zona Rosa attack not be discussed with Andrade. If it were brought up by Andrade or others, Station participants were immediately to excuse themselves from the interview.

187. [REDACTED] The cable transmitting the DDCI approval for the Station to debrief Andrade also expressed the caution that anyone present at such a discussion potentially could be called as a witness if Andrade were to be tried in the United States. In response, the newly

arrived COS expressed concerns about the potential involvement of Station officers in a trial and deferred any direct participation for the time being.

188. [REDACTED] The Station also responded that it believed Andrade could provide significant intelligence, including perishable information; that might bring about a quicker end to the civil war and noted that it believed it was fighting against time in obtaining the information. According to the Station cable, Andrade was dealing with his Salvadoran captors on a quid pro quo basis and refused to cooperate unless he was offered something in return. Foremost in Andrade's mind was reportedly the possible prosecution for the Zona Rosa killings. Until the State Department, DoJ and the Salvadorans made a decision as to whether they intended to prosecute, reported the Station, his cooperation was in abeyance.

189. [REDACTED] In fact, Station personnel never did have direct contact with Andrade, but the Station contributed to certain actions in response to an arrangement Andrade worked out with the Salvadorans. This primarily involved the Station serving as the source of funds that were given to Andrade's family as one of the preconditions for his cooperation with the Salvadoran National Police.

190. [REDACTED] From the moment of his capture, Andrade placed conditions on his furnishing of information about the insurgency to the National Police. Initially, he refused to talk unless the National Police publicized his capture, guaranteed his and his family's safety and safe conduct to the United States, and permitted him to talk with a U.S. Government representative. By mid-September 1989, Andrade's demands had become more specific. He reportedly proposed to the Salvadoran Vice Minister of Public Security that he would divulge everything he knew about the FMLN and "publicly unmask the FMLN" in exchange for clemency, financial assistance for him and his family and a cash settlement of \$10,000. As part of the Station's effort in collecting information regarding the insurgency and the FMLN, on September 25, 1989, it proposed to CIA

Headquarters that a fund, not to exceed \$20,000, be created to support Andrade's family in relocating to another country.

191. [REDACTED] Andrade was also concerned about whether or not he would be prosecuted in a U.S. court. In late September 1989, the Embassy Legal Officer informed the Station that DoJ had no intention of prosecuting Andrade and the Salvadoran Government was, therefore, free to make a deal with him. The Station passed on this assurance to the Vice Minister of Public Security who then authorized the National Police to provide Andrade's wife with sufficient funds (\$1,500) to travel to Mexico to bring their children back to El Salvador. The money was paid from funds provided by the CIA to the Salvadorans.

192. [REDACTED] CIA Headquarters learned on September 27, 1989 (probably in a telephone call to DoJ) that the Assistant U.S. Attorney (AUSA) had given a preliminary indication that he was unaware of any proposal for humanitarian parole or for the support of Andrade's family. CIA Headquarters informed the Station on the same day that passage of funds to Andrade's family as the Station had proposed on September 25 was not authorized until DoJ provided assurances it would not prosecute him. The Station was cautioned that CIA could not make any deals with Andrade while he was the subject of a DoJ investigation.

193. [REDACTED] On the following day, attorneys from the CIA's OGC met with the AUSA. According to an OGC memorandum dated October 3, the AUSA reportedly indicated that, at that time, DoJ had no plans to extradite, indict, prosecute, or call Andrade as a witness in the potential prosecution of other individuals involved in the Zona Rosa attack. The AUSA also made clear that, due to his past activities, DoJ was not willing to grant immunity to Andrade or allow him to be paroled into the United States. The AUSA reportedly indicated, however, that he would pose no objection to the CIA providing assistance to Andrade's family in exchange for any intelligence Andrade might provide.

194. [REDACTED] CIA Headquarters authorized the Station on October 2, 1989 to continue to provide funds to the Salvadoran National Police to assist in the resettlement of Andrade's family. In this regard, Headquarters authorized the Station to expend \$20,000 for the resettlement costs and temporary assistance to Andrade's family. The Station was told to refrain, however, from inducing Andrade to cooperate with the Salvadorans by having any other type of commitment made to him without prior Headquarters authorization.

195. [REDACTED] At a meeting in Washington, D.C. on October 5, 1989, the AUSA and representatives from the State Department and the FBI agreed there was no objection to the resettlement of Andrade's common-law wife, Ana Concepcion "Connie" Rivera Valladares, and his children in the United States or to the CIA providing relocation assistance to the family. All agreed the Station could debrief Andrade for foreign intelligence purposes but should refrain from discussing the Zona Rosa case with Andrade and from making any promises to him about coming to the United States. DoJ requested that the CIA not provide any relocation assistance directly to Andrade or pay him directly for any foreign intelligence. This request was based on a desire to avoid tainting Andrade's credibility as a witness if he were ever called to testify in a U.S. court.

196. [REDACTED] In early November 1989, the National Police gave \$3,000 in cash to Andrade's wife to support her and three of her children who were with her in San Salvador. The Station later reimbursed the Police for this amount. In late November, the Station arranged for Headquarters to send a direct deposit of \$3,000 for the family's assistance to the U.S. bank account of the Andrade's mother-in-law.

197. [REDACTED] In early January 1990, seven months after Andrade's capture, CIA Headquarters informed the Station of the results of separate reviews by OGC and the AUSA of information in the possession of CIA from 1985 regarding the Zona Rosa attack. Both reviews reportedly had concluded that Andrade was involved in the

planning of the Zona Rosa attack. OGC had also advised that the CIA should review the propriety and implications of any continued dealings with Andrade.

198. [REDACTED] In response, the Station stated in a January 19, 1990 cable to Headquarters that it had consulted with Headquarters and DoJ (through Headquarters) every step of the way on the case, and all actions it had taken were consistent with the limitations and specific authorizations it had received. The OGC and AUSA conclusions regarding Andrade's culpability, the Station argued, should not rule out intelligence debriefings nor fulfillment of the agreements that had been made previously to provide support to his family in exchange for the intelligence he provided. He had been told, stated the cable, that he would not be immunized from U.S. prosecution and that the U.S. Government had no plans at that time to try him and would not seek extradition unless evidence was obtained linking him to the Zona Rosa attack. The Salvadorans had also promised him that, contingent on his full cooperation, the time he served while under detention would be construed as his penalty for the crimes for which he was arrested, that his family would be provided financial support during his detention, and that he and his family would receive financial support to relocate outside of El Salvador based upon the sincerity of his effort and the value of the information he provided. The Embassy Legal Officer had told Andrade, reported the Station, that there was no assurance he could enter the United States, and it was possible his family might have to join him in another country.

199. [REDACTED] According to the Station, Andrade was ready to cooperate and, although most of the tactical information he could provide had lost its value because of the time lapse since his arrest, he was judged to still have important information. The Station asked for continuation of the authority to fund the family's support in order to encourage Andrade to provide further intelligence to the National Police. Headquarters advised the Station on January 23, 1990 that the OGC and AUSA conclusions regarding Andrade's culpability in the Zona Rosa attack did not preclude providing assistance to his family.

200. [REDACTED] On February 24, 1990, the Station requested that Headquarters arrange another transfer of \$3,000 into the New Jersey bank account belonging to Andrade's mother-in-law. The first intelligence report, based on information that Andrade prepared of his own initiative and without direction, was sent to CIA Headquarters on March 23, 1990. Station liaison officers worked closely with the National Police debriefers to provide intelligence requirements and questions for use in the Salvadoran debriefing of Andrade. On April 11, the Station requested that a third payment of \$3,000 be wired to the same New Jersey bank account for Andrade's family.

201. [REDACTED] During most of the time that Andrade was in Salvadoran police custody, he was held in a safehouse located just outside of San Salvador. He was moved there from the National Police Headquarters because the safehouse atmosphere was more conducive for elicitation and debriefings. Initially, Andrade shared the house with two other PRTC terrorists and police guards. Then, when Andrade's wife and children arrived in El Salvador from Mexico, the family stayed together in another house, also under police guard. Salvadoran police paid for the rental of the houses, food and household goods. Those costs, which totaled approximately \$22,400 for 12 months, were reimbursed to the National Police by the CIA. This was in addition to the \$20,000 fund that had been created to support Andrade's family in relocating to another country.

202. [REDACTED] The Station acquired the last intelligence report from the National Police debriefing of Andrade in mid-April 1990. In June 1990, a Salvadoran military psychological warfare and propaganda unit [REDACTED] completed a propaganda film that featured Andrade. The film was typical of propaganda media used by the Government of El Salvador at the time in which the insurgents urged their comrades to lay down their arms. Station officers were not directly involved in the filming but were knowledgeable of the film project and provided guidance and direction to the Salvadoran propaganda unit.

203. [REDACTED] With the completion of his obligation to provide intelligence information about the PRTC and FMLN and to participate in the propaganda film, Andrade was freed by the Salvadoran National Police to leave El Salvador. He, his wife and children departed El Salvador on June 28, 1990 for Miami. Andrade's airplane ticket to New Jersey was provided by the Station. In addition, the \$6,500 balance of the \$20,000 that was originally earmarked for relocation and assistance costs to the family was given to Andrade's wife in cash by the National Police. The \$6,500 was reimbursed to the Salvadorans by the Station.

C. ENTRY INTO THE UNITED STATES BY ANYONE KNOWN OR SUSPECTED OF INVOLVEMENT IN THE ZONA ROSA ATTACK

Issue: "What role [CIA] played in determining whether any of the known or suspected perpetrators/intellectual authors of the murders, or members of their families, were authorized to travel to or take up residence in the United States, and under what conditions and with what justification."

204. [REDACTED] As explained earlier, soon after his capture on May 28, 1989, Andrade told the Salvadorans he would provide information to the Salvadoran Government if it made certain concessions to him. One of those conditions reportedly included relocating his family to the United States. The Station advised Headquarters on May 30, 1989, that "The [National Police] guaranteed [Andrade's] family's safety and safe conduct to the U. S. where he has family and where he may have resident status." In addition, there was uncertainty at the time as to whether Andrade already had a legal right to enter the United States. When he was captured, he had in his possession several documents, including two U.S. social security cards, a California identification card, and a student body card for the Inglewood California Adult School. These suggested he might be a U.S. person—either a citizen, a permanent resident alien, or a legal immigrant. On May 31, 1989, CIA Headquarters informed San Salvador Station that the CIA could not be responsible for Andrade's entry into the United States, but that

Headquarters would discuss the matter with DoJ and advise the Station once further information became available.

205. [REDACTED] A week later, the Acting COS (ACOS) of San Salvador Station informed CIA Headquarters that Andrade reportedly was afraid of being released in El Salvador and wanted to be taken out of the country. The ACOS also advised that the Embassy's Legal Officer and an FBI Special Agent, who was serving as the assistant Legal Attaché in Mexico City, indicated they "would be willing to consider a 'deal' with Andrade for him to appear as a witness in prosecution of the other participants in the Zona Rosa case." According to a memorandum of this conversation, "the DoJ representative" (meaning perhaps the FBI Special Agent) had been in contact with the AUSA and discussed the possibility of a deal with Andrade if he were to testify in the United States.

206. [REDACTED] According to a June 8, 1989 cable from CIA Headquarters to San Salvador Station, it was agreed at a June 7 meeting in Washington attended by an attorney from the CIA's OGC and representatives from State Department, FBI, and DoJ, that it would be best if Andrade were to stand trial in El Salvador. A fallback position would be to send him to the United States for trial. The DoJ representative reportedly said he was exploring options and indicated a willingness to deal with Andrade, but the deal would not include a grant of immunity from prosecution.

207. [REDACTED] According to a June 21, 1989 OGC memorandum, the CIA had yet to receive any written request from the AUSA for CIA information relating to Andrade. At a meeting on June 7, 1989, the AUSA reportedly had reiterated his promise to send CIA a "requirements/laundry" list of questions he would need answered. The OGC memorandum stated that CIA information could not be shared with the AUSA until he informed CIA of his specific requirements.

208. [REDACTED] Subsequently, OGC received a letter, dated June 28, 1989, from the U.S. Attorney requesting an inventory of all documents and objects potentially relevant, all documents pertinent

to Rivas, Andrade and "Mauricio." As a result, a July 6, 1989 OGC memorandum notes the Directorate of Operations and the Directorate of Intelligence had been requested to conduct a records search for information regarding the Zona Rosa attack, including information on Andrade, which would be provided to DoJ for use in prosecution of PRTC members who had been incarcerated in El Salvador and allegedly were responsible for the killings.

209. [REDACTED] On July 12, 1989, OGC sent a letter to the AUSA detailing the status of CIA's cooperation with him and his predecessors, and the CIA's intent to provide relevant information to him. It noted that CIA records were being searched in response to his June 28 request for information:

....

On 31 May, we met with you at CIA Headquarters to provide for your personal review CIA information identified by your predecessors in the U.S. Attorney's Office as that most pertinent to a U.S. prosecution of these individuals. It has been our understanding that you and your predecessors have been provided a fairly clear description of the extent of CIA's knowledge of the Zona Rosa incident and related matters. At that meeting, however, we asked you to provide us with a written list of information necessary for your prosecution and how this information might be used in order to guide us in our support to you. Your 28 June letter does provide such a requirement list but is silent as to use and purpose. Without more specific information in regard to how sensitive CIA information is to be used by you it is very difficult for this Agency to respond meaningfully to your request.

The letter also explained that the Agency would appreciate being informed about any specific plans that the AUSA had for use of Agency employees, assets (current or former), or Agency information that he might wish to use in prosecution of the case. The July 12, 1989 OGC letter to the AUSA made a further offer for the AUSA to review at CIA Headquarters all of the background material from which his predecessors had culled the documents he reviewed on May 31, 1989, plus any further information that may turn up in the records search that is responsive.

210. [REDACTED] A July 21, 1989 letter to OGC from the U.S. Attorney, but signed by the AUSA, stated "I have no specific plans for utilizing any past or present CIA employees or assets as witnesses either at the grand jury or at trial. This does not mean that I might not want to talk to them [in the future]." The AUSA explains that he never discussed with the CIA using CIA employees or documents at trial because his past experience led him to believe that such a request would be denied. The July 21 letter also stated that, although the AUSA's predecessors had reviewed CIA documents, the current AUSA needed to review the material personally. This was necessary, the letter explained, because he might evaluate the same information differently, and because there had been a considerable passage of time since prior reviews and there were recent developments, such as Andrade's arrest.

211. [REDACTED] The July 21 letter also presented the AUSA's synopsis regarding how he learned of Andrade's arrest from OGC. The letter explained that the AUSA met with OGC attorneys who informed him that "Mario Gonzalez" had been arrested and indicated that, if he could come to the United States, he could "finger" someone who had masterminded the Zona Rosa attack. The OGC attorneys also reportedly said "Gonzalez" might be involved in the Zona Rosa attack, asked for the AUSA's opinion regarding whether "Gonzalez" could be brought into the United States to provide testimony against Zona Rosa perpetrators and stated that CIA Station personnel were eager to debrief Andrade. The AUSA's letter continued, "Subsequent events have convinced me, that notwithstanding Andrade's current denial of involvement . . . , the CIA had correctly identified him as a planner of the attack." The AUSA now states that he felt CIA tried to mislead him in discussing the parole by withholding from him "Gonzalez's" involvement in the attack. However, the letter he wrote on July 21, 1989 shows that, at that time, CIA had presented to him the information it had concerning Andrade's involvement in the attack.

212. [REDACTED] CIA's OGC was advised by the Station throughout the summer and fall of 1989 that the Legal Officer was claiming the

AUSA could not make a final decision on Andrade until he reviewed applicable CIA documents. According to a July 22, 1989 cable to CIA Headquarters, the Embassy Legal Officer mentioned to Station personnel that the AUSA "smells a rat" because of CIA's position that it could not provide documents to him until it was advised how the AUSA intended to use them. OGC explained in a cable to the Station, dated July 28, that it had made a variety of relevant documents available to the AUSA and provided him with a summary of CIA information regarding Andrade's involvement in the attack. San Salvador Station later was advised by the Legal Officer, according to an August 9, 1989 cable to CIA Headquarters, that a senior DoJ officer believed CIA was withholding information concerning Rivas' polygraph examination that implicated Andrade in the attack.

213. [REDACTED] A September 12, 1989 Agency memorandum indicated that CIA was attempting to obtain the permission of other U.S. Government agencies to share Zona Rosa documents they had originated with the AUSA. An October 3 OGC memorandum records that on September 14, the AUSA again was advised that all CIA records were available for his review at any time. However, he declined to review them until CIA categorized the documents according to subject matter.

214. [REDACTED] According to a September 22, 1989 San Salvador Station cable to CIA Headquarters, the COS and the Station's Chief of Liaison met with the U.S. Consul General and the Legal Officer in San Salvador to discuss the Andrade case. The Station representatives asked if Andrade's request to be sent to the United States, which the Station had been advised Andrade had made earlier in the presence of the Legal Officer and the Salvadoran Vice Minister of Public Security, was feasible and what steps would be required to bring it about. The Consul General indicated that this matter would be the responsibility of the U.S. Attorney General and requested, before the Consul General took any action on it, that the Station ask CIA Headquarters to "test the waters" in Washington. The Consul General also reportedly suggested that CIA ascertain and, if possible, influence DoJ's reaction if a State Department recommendation were to be made that Andrade and his family be granted a parole. The

Consul General remarked that it would be helpful if he knew what State Department would have to demonstrate in this case "to ensure that Justice would have no problems when satisfying its reporting requirements before Congress." Accordingly, the September 22 Station cable asked CIA Headquarters to act on the Consul General's requests.

215. [REDACTED] In a September 25, 1989 cable, the COS reported to CIA Headquarters that the DoJ, the FBI representative from Mexico City and the Legal Officer at the U.S. Embassy in El Salvador all "are on board regarding possible humanitarian parole" of Andrade. The COS's cable also stated that the Station and the Embassy were asking CIA Headquarters to support the attempt to gain parole for Andrade, who was of "extremely high intelligence interest." Andrade had reportedly agreed to cooperate in providing information but would not do so until he had a promise of parole into the United States and immunity from prosecution.

216. [REDACTED] On September 27, CIA Headquarters informed the Station that the AUSA said he was unaware of the humanitarian parole proposal. The Station responded on September 27 that it had been assured by the Embassy's Legal Officer that DoJ had no intention of prosecuting Andrade. According to a September 28 cable from CIA Headquarters and an October 3 OGC memorandum, Headquarters representatives met with the AUSA on September 27 and were told by him that DoJ had no plans to extradite, indict, prosecute, or call Andrade as a witness in the potential prosecution of other individuals involved in the Zona Rosa attack. The AUSA also reportedly made clear, however, that DoJ was not willing to grant immunity to Andrade or allow him to be paroled into the United States. The Station was warned by Headquarters that, in the future, it should seek Headquarters guidance before acting on uncorroborated information provided by the Embassy's Legal Officer.

217. [REDACTED] The October 3 OGC memorandum contained information regarding the September 27 meeting between OGC and the AUSA that was not included in the September 28 cable to the

Station. According to that memorandum, the OGC representative informed the AUSA that the Station had:

...advised Headquarters that the Consul General at the U.S. Embassy in San Salvador was prepared to formally propose that humanitarian parole be provided to [Andrade]. This proposal was apparently prompted by an offer by [Andrade] to provide information of intelligence value to the CIA, if [Andrade] and his family were located to the United States and given of [sic] financial and other resettlement assistance, and if [Andrade] was granted immunity from prosecution by the governments of the United States and El Salvador for crimes arising out of the Zona Rosa incident.... [Andrade] refused to provide any information until these demands were met, but ... the intelligence that he could apparently provide was deemed to be of sufficient value to facilitate his demands.

The AUSA in reply reportedly explained his position on the questions of immunity and parole and noted that:

...if CIA wished to formally propose a grant of immunity to [Andrade] in exchange for intelligence, ... a written request for DOJ concurrence should be made through channels.

In his view, since DOJ did not contemplate prosecuting [Andrade], and also did not contemplate using him as a witness in other prosecutions, DOJ would not agree to paroling [Andrade] into the U.S. under its own authority. Accordingly, the only role his office and DOJ could play in enacting [Andrade's] proposal would be in granting immunity from prosecution. Since at least some evidence, albeit insufficient to prosecute, implicates [Andrade] in the murder of the Marines, a grant of immunity would be contrary to [his] understanding of DOJ policy.... [The AUSA] mentioned that Congress and the press would likely portray such action in unfavorable terms.

The AUSA maintained that a final decision to prosecute Andrade could not be made until the AUSA had reviewed all of the CIA's information concerning Andrade.

218. [REDACTED] DOJ and State Department officials and the Embassy Legal Officer reportedly met in Washington on September 29, 1989 to

discuss the possibility of a parole for Andrade. The AUSA stipulated that, before he would approve of any proposal to bring Andrade into the United States, he would have to be granted access to relevant CIA documents. He also expressed a desire that CIA provide him with a written analysis of CIA intelligence reports concerning Andrade's involvement in the Zona Rosa attack. The CIA was not represented at the meeting, and no record has been found to indicate that Agency officials were informed of this discussion at that time.

219. [REDACTED] According to an October 6 CIA Headquarters cable to the Station, representatives from OGC and the Directorate of Operations' Latin America Division met on October 5 in Washington with the Legal Officer, the AUSA and representatives from State Department and the FBI to discuss Andrade. All reportedly agreed that the CIA could debrief Andrade for intelligence but should refrain from discussing Zona Rosa matters with him and also refrain from making any promises regarding his coming to the United States. Reportedly, no U.S. Government agency represented at the meeting appeared interested in bringing Andrade into the country, and neither State Department nor DoJ saw any advantage to such action. Both also indicated they would want to be assured that Andrade was not involved in the Zona Rosa attack before bringing him to the United States. In informing the Station of the outcome of this meeting, CIA Headquarters noted that it would appear to be premature to decide whether or not to bring Andrade to the United States. Such a step would not be considered, advised Headquarters, until it was determined how the debriefing for intelligence proceeded in exchange for financial assistance in relocating Andrade's family.

220. [REDACTED] An October 13, 1989 OGC memorandum contained information concerning the October 5 meeting that was not furnished to the Station in the October 6 cable. According to that memorandum, the Legal Officer from the Embassy in San Salvador stated at the meeting that, in his conversations with Andrade and representatives of the Salvadoran Government, Andrade's conditions for providing intelligence information did not involve immunity from U.S. prosecution but that his family be provided financial assistance and brought to the United States. Andrade also wanted to

be allowed into the United States, even though the possibility existed that he could ultimately be prosecuted. The meeting participants reportedly discussed the possibility of allowing Andrade into the United States. Three possibilities were i.) humanitarian parole by the State Department and the Immigration and Naturalization Service; ii) parole by DoJ in order for Andrade to aid in the Zona Rosa investigation or subsequent prosecution; iii) and use of the authority provided by Public Law 110 (50 U.S.C. §403(h)) for CIA, DoJ and Immigration and Naturalization Service to determine that Andrade's entry into the United States was "in the interest of national security or essential to the furtherance of the national intelligence mission."

221. [REDACTED] According to the October 13 memorandum, the State Department representatives were pessimistic concerning the possibility that State would agree to parole Andrade. A State representative reportedly said that he could not argue convincingly that the facts supported a humanitarian parole. He did offer that his opinion would change if Andrade subsequently provided a great deal of valuable intelligence, if no credible evidence was found to corroborate his alleged involvement in the attack and if Andrade provided credible information linking others to crimes prosecutable in El Salvador or the United States. The AUSA, according to the OGC memorandum, then offered his view of DoJ's position regarding a parole:

[The AUSA] said that at this time, there are no plans to either prosecute Andrade or use him as a witness in the prosecution of Rivas Bolanos or other individuals. Accordingly, DoJ did not plan to bring Andrade into the U.S. on its own behalf. Further, [the AUSA] presented his views concerning possible parole of Andrade at the request of CIA: 'if you (CIA) want Justice to concur in a recommendation for a parole, you have to explain to us why you don't think he is a murderer.' [The AUSA] said that in the past, CIA characterized Andrade as being involved in the planning of the Zona Rosa incident. However, now that Andrade is perceived by the CIA as a source of foreign intelligence, Andrade's role in Zona Rosa is being downplayed by the CIA. [Two OGC lawyers] disputed this characterization, noting that CIA has not adopted a position on Andrade's guilt or innocence, but has only collected and reported information bearing on that issue. [The AUSA]

then remarked that he was unable to come to a determination until he had been given an opportunity to review all CIA records relating to Zona Rosa and Andrade. [The AUSA] was reminded pointedly that as of 14 September CIA records were available for his review. [Emphasis added.]

222. [REDACTED] The possible use of Public Law 110 was also addressed in the October 5 meeting, according to the OGC memorandum:

The possibility of CIA bringing Andrade into the U.S. under P.L. 110 was raised by [a Justice representative] and briefly discussed. CIA representatives made it clear that CIA was not contemplating such an action at this time, which would entail a lifelong commitment by CIA to support Andrade if necessary. Under the circumstances, such actions did not appear appropriate.

The final sentences in the OGC memorandum summarized the consensus of the group:

It was also clear that State and Justice were similarly not willing at this time, for policy reasons, to commit to any direct support to Andrade, including his parole into the U.S. The meeting concluded with a general agreement that any proposal for the parole of Andrade into the U.S. would require further interagency discussions.

223. [REDACTED] A December 21, 1989 OGC memorandum concerning Andrade described the Agency's relationship to Andrade and the parole issue in the following manner:

At one time the [Directorate of Operations] considered the provision of assistance to Andrade including his possible parole into the U.S. if the information [he] provided ... proved to be of sufficient value to the U.S. Government. However, this tentative proposal from our Station was put on hold by Headquarters after failing to receive any support from State and after the U.S. Attorney's Office raised substantial objections. [Emphasis added.]

224. [REDACTED] A December 22, 1989 OGC memorandum recorded the fact that OGC and the AUSA had each conducted a review of

information in the Directorate of Operations' files relating to Andrade. The memorandum stated:

The AUSA believes that CIA documents dating from August 1985, which include the statements of other Salvadorans either allegedly involved in the incident or aware of Andrade's PRTC activities, as well as Andrade's own statement, contain sufficient evidence to conclude that Andrade was involved in the planning of the Zona Rosa massacre.

Eleven days later, on January 3, 1990, a CIA Headquarters cable informed the Station of the AUSA and OGC reviews and their conclusions that Andrade was culpable to some degree in the Zona Rosa attack. A January 23 Headquarters cable stated that the OGC review was independent of the AUSA review and "points to Andrade as masterminding the Zona Rosa slayings"

225. [REDACTED] The Station responded on January 19, 1990, stating that all its actions had been consistent with limitations imposed by Headquarters. Further, it was of the opinion that the conclusions regarding his involvement in the attack should not rule out debriefing Andrade for intelligence purposes. It also noted that the Embassy Legal Officer had reportedly told Andrade there was no assurance he could enter the United States.

226. [REDACTED] The COS recently put the situation in perspective when he said that the 1985 reports were not available to the Station, even though the data originated in San Salvador, because Station records had been required to be pared to the barest minimum necessary to perform its current mission. [REDACTED]

Thus, the Station did not have direct access to all the intelligence concerning Andrade's role in the attack. No evidence has been found of a response by Headquarters to the Station's query regarding the delay in arriving at a conclusion of Andrade's involvement in the attack.

227. [REDACTED] No evidence has been found of any further communication to or from the Station or CIA Headquarters regarding the Andrade parole question between January 19 and March 28, 1990 when the Embassy transmitted a parole request regarding Andrade to the State Department.²⁷ The Central American Task Force at CIA Headquarters, but not OGC, received a copy of the cable indicating that it was for information purposes only and not for any action on the part of CIA. Information on the cable showed that a copy had also been sent to the FBI. The cable also listed offices at the Embassy with which the cable had been "cleared,"--that is, had been allowed to review the cable before it was transmitted--and offices that received information copies only after the cable was sent. The Station was identified on the Embassy copy of the cable as an "info" addressee only and not as having "cleared" the cable in advance of it being sent. No evidence has been found to indicate Station personnel saw the Embassy message or were afforded the opportunity to comment on it before it was sent.

228. [REDACTED] The then-Consul General now says he is positive that he would have instructed the junior Embassy officer he assigned to draft the cable to bring the cable to the Station's attention before it was sent. He also says that the computer program in use at that time only allowed a limited number of offices to be listed as having seen a cable before it was sent. Thus, he says that it was theoretically possible that the Station had seen the cable but had not been included on the list of those that "cleared" the cable before its transmittal. The junior Embassy officer, however, says that it was standard procedure in subsequent years to show such cables in draft to the Station, but such coordination was not routine at the time of the Andrade parole cable. Further, he does not remember whether he "cleared" the Andrade parole request with the Station or not.

²⁷ [REDACTED] Station activities from the fall of 1989 through spring of 1990 were disrupted by an insurgent urban offensive that began in November 1989. During this period, the Station and Embassy's primary concerns were holding the Salvadoran Government together and coping with daily threats to American lives, including their own. The home of the COS was demolished by insurgent explosives, for example, minutes after he was rescued from it by Salvadoran forces.

229. [REDACTED] The then-U.S. Ambassador to El Salvador says that he assumed that there were meetings at the Embassy to discuss the formal parole request for Andrade that was sent to the State Department by the Embassy in March 1990. Participants in such meetings, he believes, would have included the Legal Officer, the Consular Section and the Station. Neither the Ambassador nor the then-Consul General, however, recalls specific meetings that were held to consider the Andrade parole request cable. The Legal Officer recalls no such meetings but says that he too assumes the Consul General would have coordinated the parole request with the Station. The COS says he does not remember attending any meetings in 1990 to discuss the Andrade parole nor does he recall seeing the cable that was sent to Washington requesting the parole for Andrade until he received the information copy after the cable had been transmitted from the Embassy. Neither does the DCOS recall being asked to coordinate on the cable before it was sent. No evidence has been found to indicate that such discussions between Embassy and Station officers took place in 1990 concerning the parole request cable prior to its transmittal to the State Department.

230. [REDACTED] The then-U.S. Ambassador and the Legal Officer now maintain that the Station encouraged them to facilitate a parole for Andrade. The COS, insists, on the other hand, that the Station played no part and was not involved in the parole request in March 1990. The DCOS also insists the Station played no role in the parole request cable and states that the only role the Station played was to provide resettlement funding to Andrade's family. The DCOS also comments that there were third-country options, such as Mexico, that the Station could have pursued for Andrade's resettlement. The DCOS says that it is simply not true that the Station pressed the Embassy to request a parole to the United States for Andrade. No evidence to the contrary has been found in Station or Embassy records, records at CIA Headquarters, or in any records that have been made available from the State Department and DoJ, or from the records of interagency discussions on the issue at the time.

231. [REDACTED] No CIA correspondence on the parole issue has been found that dates from the end of March until the end of June 1990.

On June 26, 1990, the Station stated in a cable to CIA Headquarters that Andrade was leaving for the United States on June 28 as a result of a parole in the public interest that had been arranged by the Embassy through State Department in coordination with concerned U.S. agencies. CIA Headquarters replied on July 5 to other issues raised in that cable but did not comment regarding the reported parole of Andrade.

232. [REDACTED] According to a July 10, 1990 OGC memorandum, an OGC attorney discussed the Andrade parole with an officer in the State Department's Legal Advisor's Office. The State Department officer reportedly said that he had raised the issue with the State Department's El Salvador desk officer, who in turn said he had spoken (presumably by telephone) to the Embassy Legal Officer. The Embassy's Legal Officer reportedly had told the desk officer that the parole "was CIA's responsibility." The OGC attorney pointed out that the original cable requesting the parole contradicted that assertion and indicated that the Legal Officer was responsible for the parole.

233. [REDACTED] Subsequently, on July 16, 1990, CIA Headquarters sent a cable to the Station asking it to clarify its role in the Embassy's decision to pursue the parole. The cable also reported that a State Department officer had claimed CIA was responsible. The Station replied the same day, stating that the "Station played no role in influencing State's decision to authorize Andrade's humanitarian parole."

234. [REDACTED] On July 19, the State Department also sent a cable to the Embassy inquiring about Andrade's parole. The cable mentioned that CIA Headquarters wanted to know the reason for and circumstances of Andrade's parole and specifically asked the Embassy, "Who initiated the request for Andrade's parole into the U.S. (name of individual and agency)?" and "With whom was the parole request coordinated prior to its transmittal (names of individuals and agencies)?" An August 1 response memorandum bearing the Legal Officer's typed name and identifying him as its drafter reported to State that he, the Legal Officer, had been

responsible for requesting the parole for Andrade. Further, the Legal Officer's memorandum only identified the Consular Section at the Embassy as having coordinated in advance on the Andrade parole request. The memorandum also stated that no representations or assurances had been made to Andrade or his family regarding the parole. The Legal Officer's memorandum made no mention of any role by the Station or its personnel concerning Andrade's parole and did not state that the Station, the COS, the DCOS, or any individual serving with the Station influenced, initiated, or was even aware of the parole request cable before its transmittal.

235. [REDACTED] The AUSA recalls that the OGC lawyer with whom he had been dealing called him on July 10, 1990 to discuss the parole. According to the AUSA, the OGC lawyer was upset that the parole had been granted. The AUSA says he had the feeling that "CIA had pulled a fast one, and [the Legal Officer] helped them do it." The AUSA says he did not consider deporting Andrade because the AUSA felt "it was a CIA operation and nothing could be done about it." As indicated earlier, no evidence has been found to indicate that CIA had anything to do with the March 1990 parole request.

236. [REDACTED] The AUSA further states his belief that the Legal Officer did what he did because he was a CIA officer. All current and former CIA and State Department officers who have been asked about this allegation, including the then-Ambassador to El Salvador, the COS and the Embassy's Legal Officer himself, deny that the Legal Officer worked for CIA. CIA records indicate that the Legal Officer had applied to the CIA for employment in 1983 but was not offered a position. No evidence has been found to indicate that he had an employment relationship with the Agency at any time.

Issue: "In addition, whether or not any wrongdoing, negligence, or a breach of procedures occurred in allowing known or suspected Zona Rosa perpetrators/intellectual authors of the murders to enter or remain in the United States, and if so by whom."

237. (U) No evidence has been found to indicate any wrongdoing, negligence, or breach of procedures on the part of any CIA officer regarding Andrade's parole or his continued residence in the United States.

Issue: "If suspected perpetrators/intellectual authors of the murders are in this country illegally, or without current authorization, what is being done to correct the situation?"

238. (U) No information has been found in CIA records regarding this issue.

CHRONOLOGY: EVENTS RELATING TO PEDRO ANTONIO ANDRADE MARTINEZ

1985

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| June 26 | Station Task Force report notes "Mario Gonzalez" is a PRTC member. |
| August 10 | U.S. Border Patrol reports that Garcia said "Mario" was commander of several cells and was frequently mentioned by Ismael Dimas, the leader of the Zona Rosa attack group. |
| August 15 | Sub-Secretary General of the Communist Party of El Salvador identifies "Mario Gonzalez" as Chief of the Metropolitan Regional Committee of the PRTC, deviser of the plan for the Zona Rosa attack, and as saying that U.S. Marines in the Zona Rosa would make a good target. |
| August 19 | Garcia says that "Mario" was involved in casing the Zona Rosa, was the overall chief of the operation and devised the operation after noticing that Marines visited the Zona Rosa often. |
| August 19 | Rivas notes that "Mario" was the immediate PRTC supervisor of Ismael Dimas; ordered Ismael Dimas to undertake the Zona Rosa attack; and met the attack group at its rendezvous point but was not present at the attack. Ismael Dimas reportedly said that "Mario" had given a full description of where the North American targets were. |
| August 30 | At a press conference, Abraham Dimas says he knew in advance of the Zona Rosa attack and that "Mario," "Walter" and his brother, Ismael Dimas, were planning some action around June 19, 1985. |

1986

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| January 17 | PRTC finance officer reports that "Mario Gonzalez" left for Mexico in August 1985. |
| January 17 | Vladimir Rodriguez reports that he hid weapons that "Mario" and Ismael Dimas brought to his house and that weapons were retrieved three days before the Zona Rosa attack. |
| January 31 | A San Salvador Station report based on a Salvadoran debriefing of PRTC member notes that "Mario Gonzalez" was chief of the PRTC Metropolitan Front and "intellectual author" of the Zona Rosa attack. |

1989

May 8	PRTC Central Committee member provides information that the Zona Rosa attack was planned and executed by "Mario Gonzalez."
May 28	Andrade is captured and tells the National Police that he played a role in the Zona Rosa attack.
May 30	Andrade leads the Salvadoran military to the largest arms cache yet discovered in El Salvador.
May 31	At a meeting in Washington, CIA's OGC and DoJ agree that the Embassy's Legal Officer would debrief Andrade on the Zona Rosa attack, and CIA personnel would not be present. Headquarters advises Station that CIA could not be responsible for Andrade's entry into the U.S.
June 5	Orellana states that PRTC leaders claimed Andrade was operating on his own in the Zona Rosa attack, and Andrade wrote a report about it.
June 6	Station tells Headquarters Andrade is afraid of being released in El Salvador and that Legal Officer and Legal Attaché are willing to consider a parole for him.
June 24	Andrade asserts that Jose Manuel Melgar bore primary responsibility, names three dead men as taking part in the attack, and says he was unaware of the details of the attack.
July 5	Results of the Salvadoran Special Investigative Unit's first polygraph examination of Andrade are inconclusive regarding his role in the attack.
July 12	Embassy reports that Andrade claims in four interviews with the Legal Officer and the FBI that he had no direct knowledge or involvement in the attack but only tried to acquire a doctor and safe houses for contingency purposes.
July 20	SIU follow-on polygraph of Andrade concludes Andrade did not participate in or plan the attack.
September 22	Station officers meet with the Embassy's Consul General and Legal Officer to discuss the Andrade case. Cable to Headquarters requests action on Consul General questions regarding possibility of Andrade parole.

September 25	Station requests CIA Headquarters permission to provide up to \$20,000 in exchange for Andrade's intelligence and going public against the FMLN; states that DoJ, Legal Attaché, and Legal Officer are in agreement for a parole for Andrade.
September 27	<p>Assistant U.S. Attorney tells OGC he has no plans to prosecute Andrade but is not willing to grant immunity or allow him to be paroled into the United States.</p> <p>Headquarters cable notifies Station that AUSA was unaware of humanitarian parole proposal and was not in favor of parole, and warns Station to seek Headquarters guidance before acting on Legal Officer's information.</p>
October 2	CIA Headquarters authorizes San Salvador Station to expend \$20,000 for assistance and resettlement of Andrade's family.
October 5	In Washington, CIA/OGC, CIA/LA Division, State, DoJ, the FBI, and the Embassy Legal Officer agree to the resettlement in the United States of Andrade's wife and children and that CIA may debrief Andrade for intelligence. There is no interest in bringing Andrade to the United States, and State and DoJ would want assurances he was not involved in the attack.
November 3	A Salvadoran service gives \$3,000 to Andrade's wife, later reimbursed by the Station.
November 27	Station requests CIA Headquarters arrange a \$3,000 deposit to the U.S. bank account of Andrade's mother-in-law.
December 21-22	OGC and AUSA conclude Andrade was involved in planning the attack.
1990	
January 3	Station is advised of OGC and AUSA conclusions that Andrade was involved in planning the attack.
January 19	Station requests CIA Headquarters authorization to proceed with debriefing and fulfillment of financial commitments to Andrade's family.
January 23	CIA Headquarters concurs in providing assistance to the family.
February 3	CIA Headquarters denies Station permission to debrief Andrade but welcomes any information Salvadorans might obtain from him.
February 24	Station requests a \$3,000 bank deposit for Andrade's family in the United States.

March 15	Approximate date the National Police furnish Station with first of 1990 reports based on Andrade debriefings.
March 28	Embassy requests parole for Andrade from State Department and INS. Station and CIA Headquarters receive information copies after transmittal.
April 11	Station requests a third deposit of \$3,000 for Andrade's family.
April 15	Approximate date last report of National Police debriefing of Andrade is received by Station.
April 25	State telegram to the Embassy authorizes Andrade's parole.
June 26	Station notifies Headquarters that Andrade leaves for U.S. on June 28.
June 27	Final \$6,500 given to Andrade's wife by Salvadorans, later reimbursed by Station.
June 28	Probable date Andrade leaves El Salvador and enters United States.
July 10	CIA's OGC discusses parole with AUSA.
July 16	CIA Headquarters asks Station to clarify its role in parole request.
July 16	Station replies it had no role in parole request.
July 9	States asks Embassy who requested the parole and with whom it was coordinated.
August 1	Embassy Legal Officer reports to State that he was responsible for the parole request, coordinated with the Consular Section and mentions no Station participation.

D. U.S. AND SALVADORAN ACTIONS IN RESPONSE TO THE MURDERS

Issue: "What specific action and or information the [CIA] now has, or may have provided, regarding any reprisal for the Zona Rosa terrorist act."

239. [REDACTED] On the day following the Zona Rosa attack, President Reagan stated publicly that the United States would provide the Duarte government with whatever assistance, including intelligence, was necessary to find and punish those responsible for the Zona Rosa attack. On July 9, 1985, the President signed a National Security Decision Directive directing the DCI to undertake an expanded program of improved intelligence collection and support in El Salvador in order, among other things, to locate terrorist organizations so they could be "neutralized by appropriate forces."

240. [REDACTED] On June 29, 1985, the Station received a cable from the CIA liaison officer serving at the U.S. Southern Command asking for information on the "Latest location, disposition and strength of PRTC combat or command and control units operating in northern San Vicente and Northern Usulután province of El Salvador." The request noted that the "purpose of briefings is extremely close [sic] held but represents an initiative of [the Chairman of the Joints Chiefs of Staff.]" The Station responded that it had previously forwarded the latest information on that subject.

241. [REDACTED] No evidence has been found to indicate CIA involvement in any use of U.S. armed forces for purposes of direct retaliation against the Zona Rosa killers, nor has any evidence been found in CIA records of any such actions by U.S. armed forces. Three CIA officers who were in El Salvador at the time remember that shortly after the Zona Rosa attack, a rumor circulated at the Station that consideration was being given to B-52 bombing attacks against the PRTC as punishment for the Zona Rosa attack. A CIA officer who had been assigned to Southeast Asia during the Vietnam war and had occasion to call in such strikes there says it was possible that he had been the source of the rumor because he may have discussed

the possibility with others in the Station. Senior CIA officials who were in El Salvador at the time do not recall such a rumor.

242. [REDACTED] No Agency officer who was asked to comment believes B-52 bombing attacks would have been appropriate in El Salvador because insurgent bases were almost always close to inhabited areas and any such attacks would have involved collateral civilian casualties. The *Chargé ad Interim* believes the possibility of the use of B-52 strikes was mentioned in a meeting between a Presidential envoy and President Duarte. However, the two other surviving participants in this meeting deny that the use of B-52s was ever mentioned. These two surviving participants disagree as to what was proposed to Duarte at the meeting in terms of U.S. direct action, but there is consensus among the three participants that Duarte expressed the view that no direct U.S. action was necessary.

243. [REDACTED] On June 21, 1985, the Station reported to CIA Headquarters that it would like to "concentrate its resources in making life difficult for [the Mardoqueo Cruz urban commandos]." In this regard, the Station planned to coordinate locally in support of Salvadoran armed forces military operations in the major PRTC stronghold of Cerros de San Pedro.

244. [REDACTED] The nature of the Station's support was amplified on June 25 when it noted in a cable to Headquarters that the PRTC Task Force had as one of its objectives the development of an all-source intelligence assessment of the PRTC. This would serve as the basis for major El Salvadoran armed forces' military operations targeted against PRTC field headquarters, training camps and logistical facilities, with "the intention of inflicting maximum damage as a reprisal for the [Zona Rosa] killings."

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Salvadoran pressure was forcing the PRTC to move its base camps from the area north of the Pan-American Highway to areas further east that were less firmly in Salvadoran Government control.

246. [REDACTED] The Station also requested aerial photography of suspected PRTC base camps for Task Force use. That data was included in an intelligence package for a DNI-Salvadoran Air Force team working in support of Salvadoran military operations.

247. [REDACTED] The CIA disseminated an intelligence report to U.S. consumers on June 29, 1985 regarding the initial results of the Salvadoran effort. According to this report, the Salvadoran Air Force attacked a PRTC camp in the Cerro Malarara area to bring back PRTC prisoners and documents in "the continuing search for those responsible for the Zona Rosa killings." The base camp had been located through analysis of PRTC documents, prisoner interrogation and [REDACTED] Salvadoran overhead photography.

248. [REDACTED] On June 29, 1985, the Station disseminated another intelligence report, this time concerning three fire fights that had occurred on the preceding day between the Salvadorans and insurgent forces—probably the PRTC. The PRTC Task Force report of July 1, 1985 described the location of four potential PRTC camps based upon aerial photography. The July 3 PRTC Task Force report stated that the Salvadoran Air Force planned an attack on a PRTC command post that day. By July 26, 1985, the Station had reported to Headquarters that it had received intelligence reports that the PRTC was relocating its base camps due to increased Salvadoran military pressure. According to this report, the PRTC considered this

relocation a strategic withdrawal in the face of increased Salvadoran military pressure it perceived as having been generated by "the assassination of U.S. military citizens in the Zona Rosa" In terms of direct impact on those responsible for the Zona Rosa attack, the Station later received intelligence reports indicating that Ismael Dimas and "Walter" had died as a result of Salvadoran Air Force bombing of a PRTC camp in November 1985.

249. [REDACTED] By November 12, 1985, DCI Casey was informing Chairman David Durenberger of the SSCI in a letter that the joint PRTC Task Force had paid a significant dividend. The attachment to the DCI's letter noted that one of the objectives of the PRTC Task Force was to provide the Salvadorans with positive intelligence to enable the Salvadoran military to conduct operations against the PRTC.

250. [REDACTED] In January 1986, a CIA assessment concluded that the Salvadoran campaign against the PRTC had led to increased rebel casualties. Increased Salvadoran Army pressure during the summer of 1985 had reportedly forced the PRTC to relocate from several of its traditional strongholds. A DIA assessment provided to CIA in February 1988 concluded that "the PRTC infrastructure had been virtually obliterated by early 1986, in part because of the Zona Rosa murders." A DIA analytical paper also noted in September 1989 that the Mardoqueo Cruz urban commandos were deactivated after the Zona Rosa attack due to the pressure by the Salvadorans.

251. [REDACTED] The last assessment of the Salvadoran retaliation effort that has been identified in CIA records is a comment that reportedly was made in a foreign policy Deputies Committee options paper for a meeting in January 1991. According to the paper,

After the Zona Rosa, CAJIT [Central America Joint Intelligence Team] was tasked to provide targeting information on the perpetrating faction, the PRTC. The Government of El Salvador was then pressured to react to the provided intelligence packages and dealt a series of crippling blows to the PRTC. Since 1985, the FMLN has not directly targeted U.S. personnel, primarily because of the price they were made to pay.

CONCLUSIONS

252. **█████ CIA Information About the Perpetrators.** CIA files contain information about the Zona Rosa perpetrators and accomplices. Information in CIA files, mostly based upon the statements of co-conspirators, indicates that Andrade was not present during the Zona Rosa attack but was involved in the planning and directed those who undertook the operation. The only person who can be considered knowledgeable of the events in question and states that Andrade was not involved in planning the attack is Andrade himself. He casts the blame on dead men and claims he was kept ignorant of the details of the operation. Separate reviews by the AUSA and CIA's OGC concluded that Andrade was culpable to some degree in the attack. Their conclusions contradict results of the two polygraph examinations administered by the SIU and the judgment of the Embassy Legal Officer that Andrade was not involved in planning for the attack.

253. **█████ CIA's Role in and Priority of the Zona Rosa Investigation.** The Station exerted its best efforts in 1985, within the scope of its mission, to help identify and apprehend the perpetrators of the Zona Rosa attack. Their pursuit became the Station's highest priority. The COS drove the Station to perform this mission and applied extensive pressure on the Salvadorans until there were results. Station personnel who were involved at that time deserve credit for their efforts.

254. **█████ CIA's Action Against the Perpetrators.** The Station performed properly in aiding the Salvadoran apprehension of Garcia, Rivas and Abraham Dimas. The Station polygraph of Rivas was lawful, properly approved in advance, conducted in adherence to regulation, and was within the scope of the Station's mission.

255. **█████ Efforts of the Salvadoran Government in the Zona Rosa Investigation.** The Salvadorans demonstrated aggressive efforts to identify and incarcerate the perpetrators. While the Salvadoran services' bureaucratic structure and rivalries sometimes

interfered, there appears to have been a genuine intent to succeed in this regard. There was great interest in the case at the highest levels of the Salvadoran Government, including President D  arte. This interest was translated into steps to resolve internal Salvadoran problems and remove obstacles to the pursuit of the investigation.

256. █ Salvadoran military actions did severe damage to the PRTC as an entity, reduced its effective number of combatants by about half and appears to have resulted in the deaths of at least two of the known perpetrators of the Zona Rosa attack.

257. █ **CIA's Relationship With the Perpetrators.** The Station coordinated fully with CIA Headquarters, and CIA Headquarters coordinated fully with other appropriate agencies—State Department, DoJ and FBI—before providing financial relocation assistance to Andrade's family. The Station complied with the directions it had been given by CIA Headquarters not to meet directly with Andrade or to question him concerning the Zona Rosa attack. In fact, no evidence has been found to indicate that any CIA personnel ever met with him directly for any purpose, even when, early on in his debriefings by the Salvadorans, Headquarters had granted permission for the Station to do so.

258. █ The purpose of providing funds to Andrade's family through the Salvadoran Government—to gain his cooperation in furnishing intelligence—was proper and fully within the scope of the Station's mission. In this regard, the Station properly coordinated with and obtained authorization from CIA Headquarters. CIA Headquarters, in turn, acted properly by discussing the payments with State and DoJ, neither of which raised objections to this action.

259. █ **CIA's Role in Andrade's Parole.** Immediately after Andrade's capture, OGC became the lead CIA element in dealing with the case and coordinating with other agencies, especially with DoJ and the AUSA. The degree of Andrade's culpability in the Zona Rosa attack was a key element in many of the CIA's decisions. However, the Station was not advised of the conclusion that had been reached in this regard until about six months after Andrade's

capture, subsequent to many interagency meetings and several important decisions by the Station and Headquarters.

260. [REDACTED] Based on Andrade's request and the desire of the Consul General for guidance in the matter, San Salvador Station raised the question of a parole for Andrade with Embassy officials and CIA Headquarters soon after his capture in 1989. Subsequently, however, the Station appears to have treated this aspect of Andrade's case as the responsibility of the Embassy. OGC noted in December 1989 that the CIA's interest in a parole had been "put on hold." No evidence has been found to indicate that the Station played any role in, or was consulted in advance concerning, the parole request for Andrade in March 1990. The Legal Officer did not refer to any Station involvement in the parole process when he replied directly to a formal inquiry from State Department that specifically mentioned a CIA inquiry into circumstances of Andrade's parole, and the Station specifically denied at the time that it played a part in the parole

261. [REDACTED] **Reprisal for the Zona Rosa Attack.** No evidence has been found to indicate the CIA implemented, supported, or became aware of any U.S. reprisal for the Zona Rosa attack, including use of its own paramilitary mechanisms or any agents it controlled or directed. CIA intelligence may have been used by DoD for operational planning and CIA did, as part of the U.S. Government's reaction to the attack, provide intelligence to the El Salvadoran armed forces to use in operational planning for attacks on the PRTC.

A. R. Cinquegrana

CONCUR:

Frederick P. Hitz
Inspector General

Date

17 January 1997

The Honorable Richard Shelby.
 Chairman
 Select Committee on Intelligence
 United States Senate
 Washington, D.C. 20510


Dear Mr. Chairman:

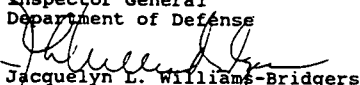
On 20 December 1996, Senator Specter, then-Chairman of the Senate Select Committee on Intelligence, sent a letter to the Departments of Defense (DoD), Justice (DoJ), State, and the Central Intelligence Agency (CIA) requesting that they declassify their Inspector General reports on the 1985 Zona Rosa killings of six United States citizens in El Salvador.

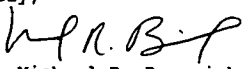
In response to that request, we are enclosing a declassified copy of each report. At the request of the CIA and DoD, some information has been redacted from the reports of CIA, DoD and DoJ to protect sources and methods and the identities of CIA employees. In addition, the DoJ has redacted from its report the names of several people who were interviewed as potential witnesses to the killings as well as the names of non-supervisory FBI employees.

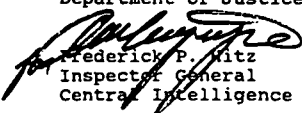
If you have any questions concerning these reports, please contact the following cognizant representatives from each of the four OIGs: Defense - Russell A. Rau (703-604-8800), Justice - Glenn Fine (202-616-0645), State - M. Milton MacDonald (202-647-9450), and CIA - Rick Cinquegrana (703-874-2600).

Sincerely,


 Eleanor Hill
 Inspector General
 Department of Defense


 Jacquelyn L. Williams-Bridgers
 Inspector General
 Department of State


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 Inspector General
 Central Intelligence Agency

Enclosures

UNCLASSIFIED



*United States Department of State
Office of Inspector General*

Report of Audit

**SPECIAL REPORT TO THE
SENATE SELECT COMMITTEE ON INTELLIGENCE
ON THE ZONA ROSA MASSACRE**

OIG/S-96-04

SEPTEMBER 1996

UNCLASSIFIED

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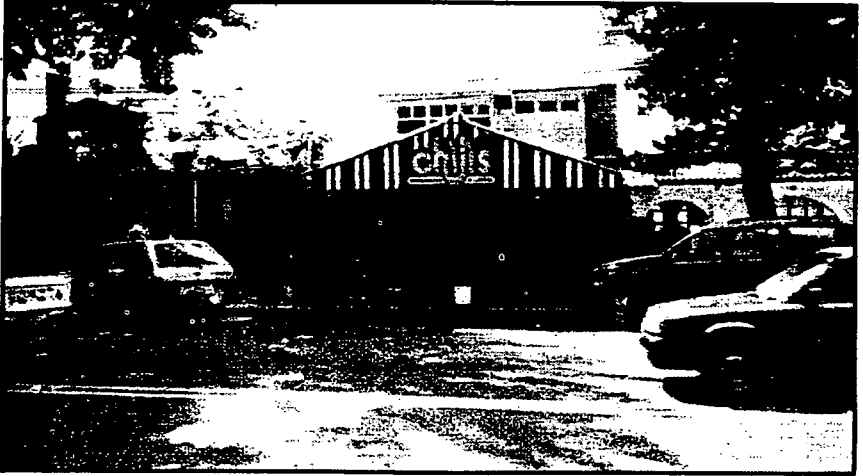
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LIST OF ABBREVIATIONS

ARA/CEN	Bureau of Inter-American Affairs, Office of Central American Affairs
CIA	Central Intelligence Agency
FBI	Federal Bureau of Investigation
FMLN	Farabundo Marti National Liberation Front (Spanish Acronym)
INS	Immigration and Naturalization Service
L/LEI	Office of the Legal Adviser for Law Enforcement and Intelligence
OIG	Office of Inspector General
PRTC	Revolutionary Workers' Party of Central America (Spanish Acronym)
SIU	Special Investigative Unit

**U.S. Department of State
Office of Inspector General**

**Special Report to the
Senate Select Committee on Intelligence
on the Zona Rosa Massacre**



State Department, Office of Inspector General Photo - Philip Bonds

1996 Photo of Crime Scene

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EXECUTIVE SUMMARY

**Special Report to the
Senate Select Committee on Intelligence
on the Zona Rosa Massacre**

Audit Report OIG/S-96-04

September 1996

Executive Summary

Purpose

In a letter to the Secretary dated February 22, 1996, the Chairman and two other members of the Senate Select Committee on Intelligence requested that the State Department's Inspector General conduct a comprehensive review of the facts surrounding the 1985 Zona Rosa terrorist killings of six Americans in El Salvador. The request contained eight specific areas, or questions, dealing with the event and its aftermath. Similar requests were made to the Inspectors General of the Departments of Justice and Defense and to the Central Intelligence Agency (CIA). The purpose of our review was to address, in detail, the eight questions contained in the Committee's request. (See appendix A.)

Background

Events in El Salvador, the smallest country in Central America, assumed worldwide prominence as political and social violence in the 1970s escalated into a civil war that extended beyond the national borders. On one side were the government forces backed by the United States, on the other, guerrillas supported by Nicaragua, Cuba, and the Soviet Union. The war continued into the 1990s and it is estimated that more than 60,000 Salvadorans died in the violence and about 25 to 30 percent of the population fled the country. It was in this setting, in a capital city often wracked by violence, that the Zona Rosa tragedy took place.

On June 19, 1985, 13 people, including 4 off-duty U.S. Marine security guards from the U.S. Embassy and two U.S. businessmen, were killed in a guerrilla attack at "Chili's," a sidewalk restaurant in the San Benito or "Zona Rosa" district of San Salvador, El Salvador. According to the

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testimony of eyewitnesses, the gunmen opened fire on the Marines, killing them and nine others, including one of their own guerrillas. The Marines were selected as targets because they were visible members of the U.S. military at a time when the U.S. Government was supporting the democratically-elected Salvadoran Government in its war against insurgents. Within 24 hours of the incident, President Reagan extended condolences to the victims' families and vowed to work closely with the Salvadoran Government to identify the perpetrators and bring them to justice.

Results in Brief

The Governments of El Salvador and the United States demonstrated sustained, aggressive efforts to identify, capture, prosecute, and incarcerate the perpetrators/intellectual authors of the crime. While the Salvadoran Government assumed the lead role, the United States encouraged and supported its efforts. The State Department coordinated the United States' efforts and also offered a \$100,000 reward. U.S. Government agencies provided technical assistance and shared information with the Salvadorans, and a Salvadoran special investigative unit, trained by the Federal Bureau of Investigation (FBI), was assigned to find the perpetrators. The State Department also exerted substantial diplomatic pressure on the Salvadoran Government to ensure that the perpetrators were prosecuted and incarcerated.

Eighteen individuals were thought to be linked to the Zona Rosa murders. Despite the ongoing civil war, the Salvadoran Government was able to apprehend three of these individuals within 2 months of the murders. A fourth was arrested in 1988. Of the 14 remaining individuals, two were killed in 1985 and one was paroled into the United States in 1990. The Department had little or no information on the other 11 individuals.

The individual who was paroled into the United States, Pedro Andrade, had been the subject of interagency discussions concerning his alleged involvement in the Zona Rosa murders. Although the Justice Department determined that there was insufficient evidence to prosecute him, and he successfully passed polygraph examinations administered by FBI-trained Salvadorans, some officials in Justice and the CIA concluded that Andrade was involved in planning the Zona Rosa murders. Evidence against him included statements by confidential informants who claimed that he, or someone with the same alias,

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planned the attack.

The record shows that the CIA station at post first proposed Andrade's entry into the United States. Based on information that was available at post, the embassy requested parole, first for his family, then for Andrade. His parole was justified on polygraph examination results, the value of intelligence information he provided, and the expectation that he would be killed if he remained in El Salvador. The parole request was forwarded by the State Department's Bureau of Consular Affairs to the Immigration and Naturalization Service (INS) at Justice, where it was approved. Although copies of the request were sent to State, the FBI, and the CIA, some interested officials at each of these agencies contend that it was not brought to their attention.

We have concluded that the embassy's legal officer exercised extremely poor judgment in carrying out his duties, and other officials at State Department headquarters failed to adequately coordinate this matter. Although there was no violation of specific laws, regulations, or procedures in connection with Andrade's parole, we found a long string of missed communication and coordination opportunities in the Departments of State and Justice and the CIA, any of which could have triggered further interagency discussions and possibly changed the final outcome of the parole.

Regarding the Department's relationship with the Zona Rosa suspects, the embassy legal officer was designated point of contact and was present when Andrade, and also when another suspect, was interviewed. As point of contact, the legal officer met regularly with Andrade, who after his release from prison, lived at the officer's residence for about a week while he completed filming of a propaganda video funded by the CIA. Otherwise, the Department did not have direct dealings with, nor receive information from, any Zona Rosa suspects.

We found no evidence to support rumors that U.S. military forces conducted reprisal operations against the insurgents responsible for the Zona Rosa murders. Nevertheless, the Salvadoran Government increased its efforts against the insurgency in the wake of the murders.

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Conclusions

In summary, the report that follows discusses information that led us to the following conclusions:

- The Governments of El Salvador and the United States mounted a sustained, aggressive effort to identify, capture, prosecute, and incarcerate the perpetrators/intellectual authors of the crime.
- Pedro Andrade's parole was requested by the Embassy San Salvador, forwarded by State, and approved by INS; it occurred without previously agreed-upon interagency coordination.
- Although there was no violation of law, regulation, or breach of procedures in paroling Andrade, there was a failure to communicate and a lack of coordination on the part of individuals in the Departments of State, Justice, and the CIA, which could have changed the final outcome of the parole.
- There was no evidence to support media rumors that the U.S. military took part in reprisal operations in El Salvador.

I. OBJECTIVE, SCOPE, AND METHODOLOGY

The purpose of our review was to answer in detail the eight questions contained in the Committee's February 22, 1996, request. We shared our findings with cognizant Department officials and considered their comments on a draft version of this report. We also coordinated our review with the Offices of Inspector General (OIG) from CIA, Defense, and Justice to ensure that all issues received adequate attention.

Information contained in this report was obtained primarily from State Department files and from interviews with current or former cognizant State officials. Through our coordinated efforts with the other three OIGs, we are aware of additional, agency-specific information which supplements, and to some degree amplifies, certain issues not contained in this report. As such, this report should be read in conjunction with the other three OIG reports in order to gain a more complete understanding of the issues involved.

We conducted the review between February and August 1996, using many sources of information. We reviewed 12 years of relevant diplomatic cables (totaling about 20,000 pages) starting with calendar year 1984 into 1996. We also searched current and archived files in the Bureaus of Inter-American Affairs, Intelligence and Research, Diplomatic Security, Administration, and Consular Affairs, and the Offices of the Legal Adviser and the Executive Secretariat. We attempted to interview anyone who would logically have been in a position to provide information on the events and decisions surrounding the Zona Rosa massacre and its aftermath. Many interviews were conducted in conjunction with representatives from the OIGs of CIA, Defense, and Justice.

We encountered limitations with both testimonial and documentary evidence. The passage of time, for instance, may have affected some individuals' recollection of events. However, we believe that we were able to reconcile most inconsistencies, which we discussed with our colleagues from CIA, Defense, and Justice. In addition, we found that some Department documents had been destroyed in accordance with standard records management procedures.

We also made a site visit in June 1996 to Embassy San Salvador, conducted a search of embassy files, and found some additional information that the post had initially overlooked in its response to a Department request. At post, we were told that virtually all inactive files (including those possibly pertaining to Zona Rosa matters) were destroyed prior to the embassy's 1992 move to a new compound. A listing of destroyed documents was not available. Some other files were probably destroyed at various times over the course of several years in keeping with uniform emergency destruction requirements, which limit the amount of classified/sensitive material overseas posts can retain.

We reviewed archived White House and National Security Council files at the Ronald Reagan Presidential Library in California to obtain additional information.

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II. CRIMINAL INVESTIGATION AND PROSECUTION

Immediately after the Zona Rosa murders, the Government of El Salvador, with the aid of the U.S. Government, launched an extensive effort to identify, capture, prosecute, and incarcerate the perpetrators of the murders. This effort culminated in the conviction of several individuals.

The following section summarizes all of the information the Department possesses on individuals implicated in the murders, the role the Department played in the investigation of these individuals, any actions taken by the Department against them, and the relationship the Department had with the Government of El Salvador concerning the Zona Rosa murders. This section contains our responses to Questions 1, 2, 5, and 7 of the Committee's request letter.

Question 1

What information does the department/agency have on the perpetrators/intellectual authors of the murders and the subsequent investigation into the matter?

On June 21, 1985, the Mardoqueo Cruz Metropolitan Front ("Urban Front") of the Revolutionary Workers' Party of Central America (PRTC) claimed credit for the Zona Rosa massacre. The subsequent investigation by the Salvadoran Government identified a number of individuals allegedly involved in the murders. The Department had information on 18 of these individuals. All but one were members of the PRTC, which was one of the five major factions of the Farabundo Marti National Liberation Front (FMLN).¹

Of the 18 individuals identified in Department files, four were arrested and incarcerated for a number of years. Two others have received considerable attention recently as they are residing in the United States. The Department had limited information on the remaining individuals.

The following chart groups the 18 people into 5 categories based on their alleged roles in the murders. The five categories are the alleged or convicted gunmen, accomplices, support providers, intellectual authors, and others. Also included in the chart is information the Department possesses pertaining to each individual's position in the Salvadoran insurgent organization and what happened to them following the massacre.

¹ The PRTC, along with the other factions of the FMLN, was a Marxist-Leninist organization whose strategy included seizing political power and installing a communist dictatorship.

Alleged or Convicted Individuals Connected to the Zona Rosa Murders

Gunmen		
Name/(Alias)	Position/Involvement	Status
Celio Rivas Bolanos (William)	Gunman.	Convicted. Served 10 years of 25-year sentence. U.S. indictment, 1989. Sought immigration to Australia in 1996.
(Julio)	Gunman.	Shot and killed by fellow assailant during the Zona Rosa attack.
Ismael Dimas Aguilar (Ulises)	Lead gunman. Granted sanctuary in Mexican Embassy.	Reportedly killed during Salvadoran attack on PRTC camp in November 1985.
Jose Antonio Bolanos Rivas (Macias)	Gunman.	No further information.
Accomplices		
Juan Antonio Morales Lucero (Ruperto)	Provided security.	Acquitted and released from pretrial detention after 5 years.
(Walter)	Implicated by Rivas.	No further information.
Pepe Ruiz	Blocked streets during attack.	No further information.
Carlos Enrique Cerna Hurtado (Sergio Moncada)	Chief of Operations. Implicated due to his position in the PRTC.	Arrested in May 1989 on unrelated charges.
Support Providers		
Juan Miguel Garcia Melendez (Jose)	Employed at upholstery shop used as PRTC front.	Convicted and sentenced to 7 ½ years.
Jose Abraham Dimas Aguilar	Operated an auto-repair shop used as PRTC front.	Convicted and sentenced to 4 years.
Pedro Rodriguez (Raul)	Stored weapons used in murders.	No further information.
Pedro Vladimir Rodriguez Guardado (Mauricio)	Stored weapons used in murders.	Arrested in January 1986. No further information.
Intellectual Authors		
Pedro Antonio Andrade Martinez (Mario Gonzalez)	Member, perhaps leader, of the Urban Front.	Arrested in May 1989 on unrelated charges. U.S. parole in 1990.
Jose Manuel Melgar (Rogelio Martinez)	Member of Political Commission and leader of PRTC logistics.	No further information.
Others Involved		
Gilberto Osorio	Implicated on "60 Minutes."	Native-born U.S. citizen.
Francis Alberto Jovel Urquilla (Roberto Roco)	Secretary General of the PRTC. Likely aware of operation due to his position.	No further information.
Alexander Magana Franco (Mario)	PRTC Personnel Chief. Likely aware of operation due to his position.	Arrested on unrelated charges. Awaiting trial as of 1989. No further information.
Federico Alfonso Urruchua Durand	Mexican Ambassador to El Salvador in 1985. Reportedly gave sanctuary to Ismael Dimas.	Entered into Department's visa lookout system.

Alleged or Convicted Gunmen

In the attack on Chili's restaurant, a group of four men approached the scene and fired at four off-duty U.S. Marines. Salvadoran authorities investigated the murders and accumulated a substantial amount of information on these individuals. Celio Rivas Bolanos (Rivas) was arrested and prosecuted, *Julio* was shot at the scene by a fellow assailant, and Ismael Dimas Aguilar was reportedly killed later by Salvadoran forces. There was no information in Department files on the fourth gunman, Jose Antonio Bolanos Rivas. The following is a summary of information in Department files on the arrest and subsequent prosecution of Celio Rivas Bolanos.

Rivas

On August 11, 1985, the Salvadoran National Guard arrested 17-year old Celio Rivas Bolanos who confessed to his participation in the Zona Rosa massacre, named the other gunmen, and described the operation in detail. The following information was obtained from Rivas during Salvadoran police interrogations.

Rivas stated that he joined the PRTC in 1981, when he first met Ismael Dimas, who would become his immediate superior in the Urban Front. On June 19, 1985, Ismael Dimas told him that they would carry out a special operation, and later that evening picked him up along with others and proceeded to the Zona Rosa. On the way to the scene, Ismael Dimas informed the group of their responsibilities during the attack.

As soon as they arrived at the scene, Ismael Dimas began firing on the Marines (who were dressed in civilian clothing) while the other members of the team followed his lead. During the attack *Julio* stepped into Rivas' line of fire and was mortally wounded. As the team was withdrawing, Ismael Dimas picked up *Julio* and his weapon and threw them into the back of a vehicle. The following day, Ismael Dimas arrived at the shop where Rivas was employed and criticized Rivas for *Julio's* death.

In May 1991, about 6 years after his arrest, Rivas was convicted and sentenced to 25 years in prison, a sentence that was confirmed on appeal. He was released from prison in September 1995 after serving 10 years (including 6 years of pretrial detention) of his 25 year sentence because of a new Salvadoran Juvenile Code and Constitution that stated that a juvenile could not be incarcerated for more than 7 years. The specifics of Rivas's trial will be discussed in greater detail in the response to Question 7, which addresses the Department's dealings with the Government of El Salvador.

Rivas was also indicted in the United States in 1989. His indictment will be discussed in the Justice Department OIG's response to this question.

In early January 1996 (some 5 months after being released from prison), Rivas applied to Australia for immigration. The U.S. Embassy in Canberra expressed the Department's

concerns about Rivas to the appropriate Australian officials. A decision on his immigration application is still pending.

Alleged or Convicted Accomplices

While the first four-man team attacked the restaurant, a second team provided security for the others by firing on guards who were protecting the Brazilian Embassy nearby. The Salvadoran investigation of these accomplices led to the eventual arrest of Juan Antonio Morales Lucero (Morales), alias *Ruperto*. State's files contained little or no information on the other three accomplices, *Walter*, *Pepe*, and *Cerna*. The following summarizes the Department's information on the arrest and prosecution of Morales.

Morales

Morales was arrested by the Salvadoran National Police in July 1988 and charged with involvement in the Zona Rosa murders. Morales confessed to being a member of the PRTC since 1984, and a lookout for the Zona Rosa team, but not an actual gunman. He remained in the vehicle with the driver while the others opened fire on Chili's restaurant. Morales left the PRTC immediately after the Zona Rosa massacre because his leaders failed to pay him the \$100 promised to him for his part in the operation. After his arrest, he identified the other alleged participants in the massacre from pictures shown to him by the National Police.

In August 1993, Morales was found not guilty in the Fifth Criminal Court of San Salvador by a five-person jury. Embassy officials speculated that the jury may have been influenced by a number of the defense attorney's arguments, the most convincing of which, according to embassy officials, appeared to be that Morales had already been imprisoned 5 years awaiting trial, which was considerably longer than the convicted (and subsequently amnestied) murderers of the 6 Jesuit priests. Other possible mitigating factors were that this was considered a political crime committed during wartime and that Morales was not an actual gunman.

Morales was released from custody in August 1993 after a Salvadoran judge rejected a petition filed by the prosecution appealing the not guilty verdict. Further discussion of his trial is found in the response to Question 7.

Alleged or Convicted Support Providers

During the Salvadoran murder investigation, several individuals were identified as having provided support to the alleged gunmen. These individuals either stored the murder weapons or were members of PRTC front organizations. Of the four individuals identified in Department files, two were later arrested and convicted. A synopsis of Department information pertaining to the arrest and conviction of these two individuals follows.

Garcia

Juan Miguel Garcia Melendez, an alleged support provider, left El Salvador on July 22, 1985, for Mexico. On August 4, 1985, Garcia was apprehended by the U.S. Border Patrol while attempting to enter the United States illegally. He asked about the \$100,000 reward being offered by the U.S. Government and stated that he had information concerning the Zona Rosa murders. Subsequently, Garcia was interviewed by an intelligence agent from the Border Patrol. Garcia was further interviewed by special agents from the FBI and the Naval Investigative Service and provided the following information during two interviews.

On the day of the massacre, Rivas and Ismael Dimas offered Garcia some extra work, vaguely described as both brave and daring. That night, having declined the offer, Garcia heard on the radio about the Zona Rosa massacre. The following day Ismael Dimas and Rivas appeared content and pleased when reading the newspaper account of the murders. Garcia also overheard Ismael Dimas accusing Rivas of shooting *Julio* on purpose. (As previously discussed, *Julio* was mortally wounded when he inadvertently stepped into Rivas' line of fire.)

On August 16, 1985, the U.S. Border Patrol returned Garcia to El Salvador where he was immediately arrested by the Salvadoran National Police. The following day, in a direct contradiction to statements given to the U.S. Border Patrol, Garcia gave a dramatically different account of his involvement. He now claimed that he had actively participated in the massacre and identified Rivas, Ismael Dimas, *Julio*, Bolanos, Pepe, *Mario*, *Walter*, and another unnamed person as additional participants. According to Garcia, the group assembled to receive instructions and uniforms on the night of the attack. The operation was under the overall command of a person known to Garcia only as *Mario*. Garcia further alleged that *Mario* directed the squad that provided security and that *Mario* and Ismael Dimas transported the wounded *Julio* to a medical facility. Garcia alleged that two vehicles were used in the attack, and that he, Rivas, *Julio*, Ismael Dimas, and Bolanos rode in a pick-up truck, while *Mario*, Pepe, *Walter*, and the unknown person rode in another vehicle.

On August 23, 1985, the Salvadoran Security Services Special Task Force took Garcia and Rivas to the Zona Rosa in an effort to resolve discrepancies in their accounts. Garcia became confused while trying to retrace his steps. When Rivas was confronted with the discrepancies in their stories, he admitted that Garcia had not participated in the actual attack after all, but had only worked at the shop where the attack was planned.

Garcia was subsequently turned over to the Salvadoran National Guard and subjected to further interrogation where he recanted his previous confession that he actively participated in the murders. Rather, he stated that he confessed due to prolonged interrogations by the National Police, and that the account he gave them was a compilation of conversations he overheard between the actual participants before and after the event.

In May 1991 Garcia was convicted and sentenced to 11 years in prison. Upon appeal, his sentence was reduced to 7 ½ years. Garcia was confined to the Santa Ana Penitentiary in El Salvador and was released in February 1993. The details of the legal case against Garcia will be discussed in the response to Question 7.

Abraham Dimas

Jose Abraham Dimas Aguilar (Abraham Dimas) is the brother of another suspected perpetrator, Ismael Dimas. Abraham Dimas, an alleged support provider who operated a PRTC front operation, was arrested on August 11, 1985, by the National Guard, who had been given information on his whereabouts by Rivas. Abraham Dimas led the Salvadoran National Guard to his brother's home, but Ismael Dimas had already fled. Unconfirmed reports stated that Ismael Dimas was killed by Salvadoran Government forces in November 1985.

In April 1991, Abraham Dimas was convicted and sentenced to 4 years in prison. He was released in March 1992 because the 5 years he had already spent in pretrial detention exceeded his 4 year sentence. The trial of Abraham Dimas is discussed in the response to Question 7.

Alleged Intellectual Authors

During interviews after their arrests, Rivas and Garcia both implicated a *Mario Gonzalez* as the intellectual author of the Zona Rosa murders. The record indicates that "*Mario*" and "*Mario Gonzalez*" were aliases used by more than one individual in 1985. However, by his own admission, Andrade was one of the insurgents using the alias *Mario Gonzalez*. The following is a brief summary of the Department's information concerning Andrade's alleged involvement in the Zona Rosa murders.

Andrade

Pedro Antonio Andrade Martinez (Andrade), alias *Mario Gonzalez*, was a member, and perhaps the leader, of the Urban Front of the PRTC. Information given to authorities by Garcia and Rivas implicated *Mario* as a participant in the Zona Rosa massacre.

Garcia alleged that Ismael Dimas told him that *Mario* had devised the operation after noticing that Marines from the U.S. Embassy visited the Zona Rosa almost every night. Garcia further alleged that *Mario*, in planning the operation, surveyed the Zona Rosa each night for several weeks preceding the attack.

Rivas stated that on the night of the murders, *Mario* arrived at the Don Pedro Cafe and spoke briefly with Ismael Dimas out of earshot and then departed toward the center of town. Ismael Dimas subsequently told the other alleged perpetrators that their targets were in the Zona Rosa. Rivas, however, contended that he did not actually see *Mario* in the Zona Rosa during or after the attack.

On May 28, 1989, Andrade was arrested by the National Police on misdemeanor charges unrelated to the Zona Rosa murders. Shortly after his arrest, Andrade began providing significant information on PRTC activities including the location of a sizable arms cache. He also professed to Salvadoran officials to have important information pertaining to the Zona Rosa murders that would implicate high level members of the FMLN. However, Andrade stated that he would only provide this information to U.S. officials.

Andrade was subsequently arraigned by a local court on June 6, 1989, on charges related to the Zona Rosa murders but did not admit to specific knowledge or involvement in the planning or direction of the massacre. Andrade alleged that *Rogelio Martinez* informed him on June 15, 1985, 4 days prior to the massacre, that an action was being planned against the "cheles" (a slang term for Europeans, Americans, and other non-Latins). Andrade said he was tasked with arranging medical care for the insurgents in connection with this unspecified action.

That same day, the embassy legal officer and an FBI Special Agent met with Andrade to determine his role in the Zona Rosa murders. Again, Andrade only admitted to tangential involvement. Over the next year, Andrade and the embassy legal officer met frequently, sometimes weekly. The information that Andrade provided during these meetings is summarized in the response to Question 3.

By the end of 1989, CIA headquarters and the Assistant U. S. Attorney concluded that Andrade was involved in planning the murders. Although the chief of station was advised of these conclusions by CIA headquarters, the ambassador and the legal officer stated that they were not informed of them.

Embassy officials, while acknowledging Andrade's past affiliation with the PRTC, recommended him in March 1990 for parole into the United States because (1) they believed his involvement in the Zona Rosa murders was minimal at best, (2) he disclosed valuable intelligence information on PRTC activities, and (3) his life was perceived to be in grave danger because of his cooperation with the Salvadoran Government. On April 25, 1990, Andrade was granted a parole to enter the United States by the INS, which concurred with the embassy's recommendation that such a parole was, in fact, warranted. Further information concerning Andrade's parole into the United States is contained in the response to Question 6.

Andrade was identified in April 1993 as one of the "intellectual perpetrators" and a planner of the Zona Rosa attack by the United Nations Truth Commission. The commission sought to achieve national reconciliation and further the peace process by reporting on serious acts of violence that had been committed by both the insurgents and the Salvadoran Government forces.

Department officials did not feel that the commission's conclusion regarding Andrade's involvement was credible because of its reliance on selected testimonial evidence. Embassy officials who had knowledge of the incident were not asked to testify, and we were

told that the information concerning Andrade's involvement would have come from FMLN sources seeking revenge against Andrade for cooperating with the Salvadoran Government during the war.

Others

Information in Department files indicated that four additional individuals may have been connected to the murders. Of these four, two were implicated due to their positions within the PRTC. A third individual, the Mexican Ambassador to El Salvador in 1985, allegedly provided sanctuary in the Mexican Embassy to Ismael Dimas, an alleged gunman, and later escorted him safely out of San Salvador. The Mexican Ambassador is discussed in the response to Question 3. The Department has limited information on the fourth individual, Gilberto Osorio. A summary of the Department's information on Osorio follows.

Gilberto Osorio

Osorio was born of Salvadoran parents in San Francisco, California, but spent most of his childhood in El Salvador. He served in the U.S. Air Force in the 1970s and joined the FMLN in the 1980s. As a member of the FMLN, Osorio became an expert in explosives.

On May 21, 1995, Gilberto Osorio appeared on the CBS television program "60 Minutes." In the interview with correspondent Ed Bradley, Osorio stated: "It was either them or us, so we made it a point to target some American servicemen in order to make a point to Congress and to have them take a second look about what was going on with the advisers." The combination of Osorio's statement, together with Bradley's voice-over and footage of the crime scene, gave the viewer the distinct impression that Osorio was involved in the massacre. On closer review, however, it is clear that Osorio never admitted any direct involvement.

In an interview with "The San Francisco Examiner" published in May 1995, Osorio bragged about celebrating when the Zona Rosa murders occurred, but again denied that he had any direct role in either the planning or execution of the murders of the four U.S. Marines in 1985.

The FBI also interviewed Osorio who denied any involvement in the Zona Rosa massacre and stated that the "60 Minutes" interview took his comments out of context.

Although we are aware that information on Osorio surfaced in the CIA's and FBI's files in 1985 shortly after the massacre, the Department's files had no information on him prior to the "60 Minutes" interview. We found no evidence in any of these files linking Osorio to the massacre.

For purposes of clarity, we grouped the following responses to Questions 2, 5, and 7 into one section.

Question 2

What action has been taken by officials from the department/agency against the perpetrators/intellectual authors of the murders?

Question 5

What role has the department/agency played in the investigation of the murders and what priority has been placed on the investigation?

Question 7

What dealings, since the murders, has the agency had with the Government of El Salvador on this matter and, in the course of that relationship, has the Salvadoran Government demonstrated an aggressive effort to identify, prosecute, and incarcerate the perpetrators/intellectual authors?

Both the State Department and the Government of El Salvador mounted an aggressive effort to identify, prosecute, and incarcerate the alleged perpetrators/intellectual authors of the June 19, 1985, Zona Rosa murders. While the Government of El Salvador assumed the lead role in the investigation and subsequent prosecutions, the Department and other U.S. Government agencies encouraged and fully supported these efforts. Within 2 months of the murders, the Salvadoran Government had already identified most, if not all, of the alleged participants and apprehended three of them. A fourth was apprehended in 1988.²

The Department applied strong diplomatic pressure on the Salvadoran Government to ensure that these individuals were prosecuted and did not benefit from a series of nationwide amnesty laws passed in 1987 and subsequent years. The three suspects captured in 1985 were successfully prosecuted in 1991. The fourth was tried in 1993, found not guilty, and released after spending about 5 years in prison awaiting trial. The Department also assisted the Department of Justice's efforts to develop prosecutable cases against the defendants in the United States in the event they were released from prison under any of the amnesty agreements. The Department's actions to assist the Salvadoran Government and the Department of Justice are summarized in the following section.

²A fifth individual, Pedro Andrade, was arrested in 1989. The details of his arrest and subsequent parole into the United States are discussed in the response to Question 6.

Investigation

The Salvadoran investigation into the Zona Rosa massacre was fully supported by the U.S. Government. On the day following the murders, President Reagan issued a statement directing the Secretary of State and other Federal agencies to immediately provide the Salvadoran Government with whatever assistance was needed to find and punish the individuals responsible for the attack and to successfully fight the war against the Salvadoran insurgency. In a July 1985 memorandum to the White House titled "An Action Plan to Combat Terrorism in Central America," the Department reported on the status of actions being taken or planned by several U.S. Government agencies in response to the President's directive. The plan addressed six principal areas: assisting the Salvadoran Government to find and punish the terrorists responsible for the Zona Rosa murders; improving security for U.S. personnel in El Salvador; expediting procurement and delivery of U.S. security assistance; enhancing Salvadoran investigative, police, counterterrorist, and judicial capabilities; upgrading Salvadoran intelligence capabilities; and reviewing additional programs such as providing El Salvador with supplemental funding for economic and military assistance. A National Security Decision Directive (NSDD-176) that authorized these options was subsequently issued.

The action plan identified several steps the Department was taking to assist the Salvadorans to find and punish the individuals responsible for the attack. The plan also reiterated the President's offer to provide the Salvadorans with all feasible investigative and technical support, including the full resources of the FBI. In addition, the Department offered a reward of \$100,000 for information leading to the arrest or conviction of those responsible for the murders. That reward offer was mentioned by Garcia, a convicted PRTC supporter, when he provided Zona Rosa information to the U.S. Border Patrol in connection with his attempt to enter the United States illegally. Furthermore, the U.S. Embassy closely monitored the Salvadoran Government's investigative efforts.

On June 21, 1985, the Department's Bureau of Diplomatic Security sent two agents to San Salvador to monitor Salvadoran police efforts to apprehend the killers. The agents subsequently shared the results of their review with the FBI.

In addition, the Secretary instructed the office of S/IG, the predecessor organization to the current Inspector General's Office, to examine the mission's security program and determine whether it was adequate to protect the safety of U.S. Government employees stationed overseas. In a report to the Secretary dated August 9, 1985, the IG team found the mission's security program was reasonably related to the security threats that existed in El Salvador at the time and did not find a basis for the Secretary to convene a Board of Inquiry to fix responsibility on any official in San Salvador for negligence in connection with the Zona Rosa incident. However, the team did urge that a general effort be made to tighten security at posts on the Department's critical threat and serious high threat lists.

The Department also encouraged the Salvadoran Government to activate its Special Investigative Unit (SIU). Although the SIU had been trained by the FBI in 1984 to conduct homicide investigations, the Salvadoran legislation that was necessary to bring the unit into existence had not yet been signed. Salvadoran President Duarte subsequently authorized the SIU and made the Zona Rosa investigation its highest priority. The Department provided equipment to the SIU and expedited logistical and organizational support from other U.S. Government agencies to enable it to function effectively. The SIU assisted the Salvadoran military and police in conducting the investigation.

On the diplomatic front, in July 1985 the Department requested that all posts in the region make demarches to their host governments, calling on them to break off all diplomatic contacts with the FMLN on the grounds that it had employed and encouraged terrorism. Later, the FMLN high command acknowledged that the international repercussions that followed the Zona Rosa massacre hurt the organization.

The Salvadoran Government's investigation into the Zona Rosa murders yielded results almost immediately. Within a week, a significant amount of evidence had been collected and, by the end of August 1985, the Salvadoran authorities had not only identified many of the individuals believed to be involved in the attack, but had captured three of them. A fourth individual was captured in 1988. In a personal letter to President Reagan, President Duarte stated that the effective and professional assistance of the U.S. Government in training and equipping the SIU had been a major factor in fulfilling the Zona Rosa investigation.

Role in Prosecution

Three of the alleged participants in the Zona Rosa massacre--Celio Rivas Bolanos, Juan Miguel Garcia Melendez, and Jose Abraham Dimas Aguilar--were jailed in El Salvador in August 1985 pending trial. In November 1987, before they could be tried, the Government of El Salvador passed a broad amnesty law that authorized pardons for both political crimes and common crimes committed for political reasons. The amnesty was designed to advance the peace process and foster national reconciliation. Its provisions were so broad that virtually everyone arrested under El Salvador's anti-terrorism statutes was eligible for pardon and, as a result, more than 450 people were released from prison. The trial judge in the Zona Rosa case determined that the three defendants were also entitled to benefit from the amnesty agreement and started to process their release orders.

The U.S. Government reacted immediately. A U.S. Senator introduced a resolution urging the Secretary of State to exercise all available diplomatic means to ensure that the terrorists responsible for the massacre of the Marines be held accountable for their actions and not absolved from all punishment under an amnesty law. In addition, the U.S. Embassy applied strong diplomatic pressure on the Salvadoran Attorney General to appeal the amnesty grant. The embassy also filed an appeal directly, but was denied because the embassy lacked legal standing in the case. The Salvadoran Government's appeal, on the other hand, was

accepted for review. In addition, at the embassy's request, the trial judge revoked the release order for the defendants pending resolution of the appeal.

The Department's Office of the Legal Adviser and the Department of Justice worked with the Salvadoran Government to frame the legal arguments for denying amnesty under the appeal. The Departments argued that, since the embassy's Marines fit the legal definition of "internationally protected persons," they were entitled to special protection under international laws, which included (1) the 1961 Vienna Convention on Diplomatic Relations that obligated host countries to take all appropriate steps to prevent attacks on diplomatic personnel and (2) the 1973 International Convention on the Prevention of Terrorism against Diplomats, which called for the prosecution of crimes against internationally protected persons. In addition, the Salvadoran Constitution provided that international obligations took precedence over domestic law. The embassy then sent a diplomatic note to the Salvadoran Attorney General and the Foreign Ministry, which stated how these laws should be applied to the initial amnesty determination. Despite the embassy's and Salvadoran Government's efforts, however, the appeals court in February 1988 rejected the Attorney General's appeal and upheld the trial court's decision to release the defendants.

The embassy mounted an intense diplomatic effort to ensure that all legal avenues were fully exhausted to prevent the release of the defendants. Embassy officials held numerous meetings with Salvadoran officials at all levels to express their displeasure with the decision. The Ambassador held discussions with, among others, President Duarte, the Salvadoran Minister of Defense, the Attorney General, the Minister of the Presidency, the National Police Chief, and a Supreme Court Justice. Other embassy officials were in continuous contact with all key government and judicial players. In addition, the embassy informed the Salvadoran Government that the U.S. Congress had passed a punitive amendment stating that if the Zona Rosa defendants were released, 10 percent, or \$18.5 million, of economic support funds already appropriated for El Salvador would not be obligated. As a direct result of intense lobbying efforts by the embassy, the Salvadoran Court agreed to forward its ruling, which granted amnesty to the defendants, to President Duarte for review. Duarte, as Commander-in-Chief of the Armed Forces, was the only person legally capable of overturning the decision. Duarte subsequently announced the appointment of a legal commission to consider the Zona Rosa case and recommend a decision to him.

In April 1988 President Duarte overturned the decision of the appellate court by ruling that international law did in fact take precedence over state law and, therefore, the defendants were not entitled to benefit from the amnesty. The legal counsel for the defense subsequently filed a habeas corpus petition with the Salvadoran Supreme Court challenging Duarte's decision. In December 1989 the Supreme Court denied the petition and, in May 1990, trial proceedings were initiated against the three defendants.

Department records indicated that during the time period between the petition being filed with the Supreme Court and the start of the trial, embassy officials met numerous times with officials in the Salvadoran Government to ensure that the petition was denied and the prosecution proceeded as quickly as possible.

In addition, in March 1989, the ambassador created the position of legal officer to monitor the progress of special interest cases, such as the Zona Rosa murders. The legal officer, a member of the Foreign Service and a lawyer, served previously in the capacity of political officer under the same ambassador at two separate posts (where the ambassador served as deputy chief of mission). There was no FBI legal attaché at post.

In May 1991, Rivas, Abraham Dimas, and Garcia were convicted for their roles in the Zona Rosa massacre. Rivas was sentenced to 25 years in prison for subversive association, cooperation in subversive propaganda, and acts of terrorism resulting in the deaths of several persons. Abraham Dimas received 4 years for acts in support of terrorism. Garcia was sentenced to 11 years for cooperating in subversive propaganda, subversive association, and acts in support of terrorism. At the conclusion of a routine appeals process the following year, the appeals court confirmed the 25-year sentence of Rivas, reduced the 11-year sentence of Garcia to 7 ½ years, and ordered the release of Abraham Dimas, who had already served more than 4 years in prison awaiting trial. Garcia was released in February 1993.

In July 1988 Juan Antonio Morales Lucero was arrested for his alleged role in the Zona Rosa murders. In the early 1990s, the Salvadoran Government passed additional amnesty agreements from which both Morales and Rivas tried to benefit. However, actions by both the U.S. and Salvadoran Government ensured that they remained in jail. In August 1993, Morales was tried, acquitted, and then released after having served approximately 5 years in prison awaiting trial. In 1995, due to a new Salvadoran Juvenile Code, Rivas' case was transferred to juvenile court because he was 17 years old when the Zona Rosa murders were committed. Since the maximum penalty for a juvenile under the new code was 7 years, Rivas was released from prison in September after serving a total of 10 years of his original 25-year sentence. We found no evidence of any other outstanding judicial proceedings in El Salvador regarding the Zona Rosa murders.

When the 1987 amnesty grant was first issued, the State Department asked the Justice Department to examine the possibility of prosecuting Rivas, Garcia, and Abraham Dimas in the United States in the event they were amnestied and released from prison. Both the Office of Law Enforcement and Intelligence within the Department's Office of the Legal Adviser (LLEI) and the embassy worked closely with Justice in carrying out these efforts.³

A Department attorney accompanied a team of officials from Justice and the FBI to El Salvador to determine the feasibility of U.S. prosecutions should they become necessary. The embassy arranged for the team to meet with Salvadoran officials and to interview potential witnesses. Justice Department officials determined that the only possible basis for prosecution under U.S. law was 18 U.S.C. 1116, which states that it is a Federal crime to

³LLEI is responsible for coordinating law enforcement matters with U.S. foreign policy implications with both the embassy and the Department of Justice and bringing knowledge of pertinent U.S. and foreign laws to the attention of Justice attorneys.

murder an internationally protected person. This law also gives U.S. courts jurisdiction over the offense if the alleged offender is in the United States.

Notwithstanding the fact that none of the three defendants was actually in the United States and El Salvador's Constitution prohibited the extradition of Salvadoran nationals, the Assistant U.S. Attorney assigned to the Zona Rosa murders believed that Rivas could be prosecuted in the United States since there was a credible eyewitness who could identify him as one of the gunmen. L/LEI assisted the Justice Department in evaluating the strength of the case against Rivas and discussing possible ways to obtain custody over him. The embassy also assisted the U.S. Attorney's office by locating and interviewing the eyewitness in El Salvador who could be used to identify Rivas. The embassy's legal officer subsequently escorted this witness to the United States to aid in a grand jury investigation that resulted in an indictment against Rivas in 1989. The status of this indictment will be discussed in the Justice OIG response.

III. DIALOGUE/RELATIONSHIP WITH SUSPECTS

This section contains our responses to Questions 3 and 4 of the Committee's request letter.

Question 3

What information has the department/agency received from the perpetrators/intellectual authors of the murders?

State Department records indicated that there was direct contact with only two suspects. Andrade and Cerna, both of whom were interviewed in 1989 by the embassy legal officer. The following summarizes the information they provided to the State Department.

Andrade

The legal officer and a Department of Justice assistant legal attaché (an FBI Special Agent) were the first U.S. Government officials to meet with Andrade on June 6, 1989, 9 days after his capture by the National Police. During this preliminary interview, Andrade admitted having only minimal involvement in the Zona Rosa incident.

On June 8, 1989, the embassy legal officer and the assistant legal attaché met again with Andrade who explained that Ismael Dimas was given sanctuary in the Mexican Embassy in San Salvador after the murders and was later escorted to the outskirts of the capital by a Mexican official. Andrade positively identified this official from a photograph as the Mexican Ambassador to El Salvador, Federico Alfonso Urruchua Durand.

Also, Andrade discussed the handling and storage of weapons with the embassy legal officer and stated that Ismael Dimas was in charge of weapons in 1985. Andrade identified Cerna as the key weapons handler before Ismael Dimas.

On July 5, 1989, Andrade underwent the first of two polygraph examinations administered by the SIU. The examination confirmed his allegation regarding the Mexican Ambassador. As a result, the ambassador's name was entered into the Department's visa lookout system, an action that limited his chances for approval of future visa requests. Information in Department files showed that the ambassador later applied for a visa in 1989, but his application was refused.

Cerna

A CIA document in State Department files discussed the arrest in May 1989 of another alleged participant, Cerna. Although Cerna allegedly provided security for the gunmen, we found no information in Department files directly implicating him in the murders. Department files merely showed that he was linked to the murders due to his position in the PRTC as the leader of the Urban Front prior to the massacre.

A Department cable documented a conversation between Cerna and the embassy's legal officer, in which Cerna stated that "Andrade was not in the loop either in the planning or implementation of operations." Cerna was in Cuba for training when the murders occurred.

Question 4

What relationship did the department/agency have, either before or after the murders, with the perpetrators/intellectual authors of the murders or other individuals known or suspected to have been involved?

We found no evidence in the Department's files that the Department had any type of relationship with the alleged perpetrators or other suspected individuals prior to the murders. Four years after the murders, however, the Department's legal officer in San Salvador, in his role as the embassy's expert on human rights and law enforcement matters, had conversations with both Andrade and Cerna while they were in Salvadoran custody.

As discussed in the response to Question 1, Andrade was implicated in the murders as the alleged intellectual author. The embassy legal officer's relationship with Andrade consisted primarily of meetings and debriefings. At the request of the CIA station, the legal officer (who was accompanied by an FBI Special Agent from Mexico City) was the first U.S. Government official to interview Andrade after his capture in May 1989. Information provided by Andrade to the legal officer and the special agent was discussed in the response to Question 3, and the Department's role in Andrade's subsequent parole into the United States is found in the response to Question 6. Based on information in Department files, the legal officer and the special agent met with Andrade four times between June 6 and 30, 1989. After that time, the legal officer met with him frequently, sometimes weekly, until Andrade left for the United States in June 1990.

According to an October 1989 cable from post, the legal officer delivered reading material and personal items to Andrade during his confinement. The legal officer stated that all substantive debriefings of Andrade were conducted by the National Police, who used written questions from the CIA station to obtain intelligence information. After his parole was finalized, Andrade resided with the legal officer for about 1 week in June 1990 so that Andrade "would be more at ease and talk freely" during the filming of propaganda videos

funded by the CIA. According to the legal officer, the CIA decided not to use the films, which were later destroyed.

We found no evidence that the Department had any further official relationship with Andrade since his parole in June 1990. However, Andrade has continued to periodically contact the former legal officer (who resigned from the Department in May 1991).

The legal officer's relationship with Cerna, the previous chief of operations for the Urban Front and an alleged security provider, was limited to a one-time discussion between the two. The legal officer summarized the results of the meeting in a September 1989 cable to the Department in which he said Cerna stated that, based on the PRTC's command structure in 1985, Andrade was not involved in the planning of the massacre. We found no other information in Department files to indicate that the Department had a relationship with Cerna or any other suspects except Andrade.

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IV. ENTRY OF SUSPECT INTO THE UNITED STATES

Question 6

What role did the department/agency play in determining whether any of the known or suspected perpetrators/intellectual authors of the murders, or members of their families, were authorized to travel to or take up residence in the United States, and under what conditions and with what justification? In addition, did any wrongdoing, negligence, or breach of procedures occur in allowing known or suspected Zona Rosa perpetrators/intellectual authors of the murders to enter or remain in the United States, and if so by whom? If suspected perpetrators/intellectual authors of the murders are in this country illegally, or without current authorization, what is being done to correct the situation?

In April 1990, the State Department requested that Pedro Andrade, a suspect in planning the Zona Rosa murders, be paroled into the United States. INS approved State's request and Andrade entered the United States in June 1990.

Parole of aliens is authorized by section 212 (d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)). It provides discretionary power to the Attorney General, through INS, to admit aliens into the United States, in exceptional cases, when compelling humanitarian grounds or U.S. national interest warrant admittance of foreign nationals who cannot qualify for U.S. visas or refugee documents.

State Department procedures in effect at the time of Andrade's parole as published in Volume 9 of the Foreign Affairs Manual provided that "when a consular officer believes that highly exceptional circumstances or grave humanitarian concerns warrant the use of the parole procedure in a specific case, the officer shall make a recommendation to the Department... (Visa Office)...setting forth the special circumstances or concerns." The guideline then lists several items of specific identifying data that must be included in the recommendation and states "if the Department concurs, the Department will make a request for parole authorization to INS." However, the Foreign Affairs Manual did not stipulate format clearance requirements or procedures.

In May 1989, the U.S. Government learned that Pedro Andrade had been arrested in El Salvador. He had been arrested as an FMLN insurgent on May 28, 1989, by Salvadoran police who then realized he was also a suspect in the 1985 Zona Rosa murders. Andrade cooperated with Salvadoran officials and disclosed information that resulted in a large seizure of insurgent weapons.

At his arraignment before a Salvadoran court on June 6, 1989, Andrade denied involvement in planning and carrying out the Zona Rosa massacre, but admitted to being tasked to arrange for medical care to be available for the insurgents, if needed, in connection with an undisclosed upcoming attack that was being planned against foreigners. While in police custody, he indicated that he had information to share with U.S. officials. CIA officials were interested in obtaining intelligence information from Andrade but were reluctant to debrief him because of the possibility that they could be subpoenaed to testify against him, if he were prosecuted later in the United States. Instead they relied on Salvadoran counterparts to interrogate Andrade.

After Andrade's arraignment, the embassy sent two officials to interview him--the embassy legal officer and an FBI Special Agent. The embassy's initial interest was to explore the possibility of having Andrade stand trial for his role in Zona Rosa. The record shows that the embassy legal officer was the designated point-of-contact with Andrade and told him, as instructed, that he (Andrade) would be prosecuted if sufficient evidence surfaced linking him to the Zona Rosa murders. One of the key duties of the embassy's legal officer, a Foreign Service officer and an attorney, was to facilitate investigations and help develop human rights cases for prosecution. He had worked closely with U.S. and Salvadoran prosecutors in preparing other Zona Rosa cases and later would be involved with other terrorist prosecutions. The FBI Special Agent was on temporary assignment from his post in Mexico City. The FBI did not have agents permanently assigned to El Salvador at that time.

An interagency meeting was held on June 8, 1989, between Justice, State, and CIA to help facilitate interagency coordination of the Andrade case. The attendees agreed that all agencies were committed to and would assist, as appropriate, in a successful Salvadoran prosecution (or plea bargain involving substantial jail sentence); and in case the Government of El Salvador's prosecution went sour, the U.S. Government should try to develop a prosecutable case against Andrade.

Based on several interviews of Andrade by the embassy's legal officer and the FBI Special Agent, and on polygraph tests administered by U.S.-trained Salvadorans, the embassy eventually concluded that Andrade, although an insurgent, probably was not directly involved in the Zona Rosa murders. In a September 11, 1989, cable the embassy reported:

"...our conclusion is that the evidence does not support a finding that he was involved in either the planning or implementation of the crime."

The embassy requested that the Department of Justice acknowledge that there was no prosecutable case against Andrade and forego any request for extradition. On September 13, 1989, the Department cabled post that although the Department of Justice was not prepared to arrest Andrade should he enter the United States, Justice continued to view him as a target of the FBI investigation and as a potential defendant.

According to the ambassador and the embassy legal officer, the CIA surfaced the idea of arranging for Andrade's entry into the United States. First, the chief of station explored the

possibility of bringing Andrade to the United States under CIA's special authority (50 U.S.C. 403 (h)), but CIA headquarters was not receptive to this method because of Andrade's background. Thereafter, the embassy assisted the CIA by using consular channels to request a parole for Andrade.

In a cable from CIA at post to CIA headquarters dated September 22, 1989, the CIA's chief of station reported that he had met with the embassy legal officer and the consul general to discuss Andrade. Specifically, the CIA wanted to know whether it was "feasible" to send Andrade and his family to the United States and, if so, what steps would be required to bring it about.

On September 29, 1989, an interagency meeting was held between State, Justice, and the FBI regarding Andrade. State Department representatives included an attorney from L/LEI and the embassy legal officer. The record indicates that at the meeting the embassy legal officer stated that Andrade wanted to go to the United States. The Assistant U.S. Attorney responded that any proposal to bring Andrade to the United States would have to be in writing and would be subject to several conditions.

By October 1989, the Assistant U.S. Attorney assigned to the case believed that although the evidence against Andrade in his possession at that time was insufficient to support prosecution in a U.S. court, he nonetheless was convinced that Andrade was heavily involved in the incident. Therefore, he refused to grant Andrade immunity from U.S. prosecution. Andrade had initially asked for immunity, along with resettling himself and his family, in exchange for information he would provide on the FMLN. He later dropped his demands for his own resettlement and immunity, and agreed to share information if his wife and children were resettled in the United States.

On October 5, 1989, an interagency meeting between Justice, State, and CIA officials was held in Washington to discuss an appropriate response to Andrade's demands. State representatives included an attorney from L/LEI, the embassy legal officer, and a Salvadoran desk officer from the Office of Central American Affairs, Bureau of Inter-American Affairs (ARA/CEN). The interagency group agreed that Andrade's family would be resettled in the United States. They also agreed that any future effort to parole Andrade would require further interagency discussions.

According to a memorandum prepared by a CIA attorney in attendance, "representatives of the State Department were pessimistic concerning the possibility that they would agree to parole Andrade into the United States." The memorandum states that the Assistant Legal Adviser for Law Enforcement and Intelligence within the Office of the Legal Adviser commented that

"he could not argue convincingly that the facts as currently known supported a parole for humanitarian reasons. However, this could change if Andrade subsequently provided a great deal of valuable intelligence, if credible evidence corroborating his alleged involvement in Zona Rosa was not

discovered, and if Andrade provided credible information linking others to crimes prosecutable in El Salvador or the United States."

The memorandum states further that the Assistant U.S. Attorney said, "If you (CIA) want Justice to concur in a recommendation for parole, you have to explain to us why you don't think he is a murderer."

On October 6, the embassy initiated a request to parole Andrade's three children. (Andrade's wife and her two children already had permanent resident status in the United States). INS approved the parole of Andrade's children effective October 19, 1989. His family traveled to the United States on October 25, 1989, and were provided indirect financial assistance from the CIA.

Another interagency meeting was held in Washington on October 24, 1989, with representatives from State (L/LEI and the legal officer), Justice, and the FBI (the CIA did not attend). This meeting also kept the question of Andrade's parole on hold until the Assistant U.S. Attorney had an opportunity to discuss the case with the CIA and review its files. The Assistant U.S. Attorney wanted positive assurances that Andrade was not a murderer before he would be allowed to enter the United States.

During our interview of the legal officer, he stated that he did not recall these interagency meetings on the Andrade parole nor did he recall an agreement that any future effort to parole Andrade would require further interagency discussions.

The U.S. Ambassador to El Salvador recalls that the legal officer briefed him on the Washington interagency meetings in enough detail to indicate that he had been asked tough questions. However, the Ambassador said he was not made aware of L/LEI's failure to support parole at this time, nor of the Assistant U.S. Attorney's objections to a parole. The deputy chief of mission and consul general were also under the impression that there was no opposition in Washington to Andrade's parole.

Shortly after the October 24, 1989, meeting other events moved to center stage in El Salvador. On November 11, the FMLN abandoned the ongoing U.N.-sponsored peace process and launched a "final offensive," deploying about 3,000 heavily armed commandos within the capital city in an effort to topple the legitimate government. Within the first 2 weeks, the rebels attacked the presidential residence in an assassination attempt, bombarded the Salvadoran Armed Forces headquarters, and controlled large areas of the city. Twenty-two U.S. military advisers were barricaded in a hotel that was taken over by the FMLN, and other U.S. citizens connected with the embassy were taken captive. Embassy employees came under attack in their homes, and nonessential personnel were evacuated. The offensive continued until late December.

One of the most controversial episodes of the Salvadoran civil war took place on the night of November 15-16, 1989, when six Jesuit priests were pulled from their beds at the Catholic university and gunned down. This event caused an outburst of political criticism and

increased media attention on all subsequent events as they unfolded in El Salvador. Eventually, with the assistance of the U.S. Embassy's legal officer, the government troops responsible for the Jesuit murders were captured, tried, and incarcerated. The events which occupied the embassy's attention in late 1989 and early 1990, such as the final offensive and the Jesuit murders, put the Andrade case on a back burner.

By the end of 1989, CIA headquarters had developed misgivings about continued dealings with Andrade. In addition, the Assistant U.S. Attorney believed that, although Andrade might never be prosecuted because of a lack of witnesses and admissible evidence, there was sufficient information to conclude that he was involved in planning and implementing the Zona Rosa murders. On January 3, 1990, the CIA headquarters advised their chief of station at post of the recent conclusions reached by the Assistant U.S. Attorney and by CIA headquarters that implicated Andrade in the Zona Rosa murders. On January 15, 1990, a Salvadoran judge authorized Andrade's release from prison, but arrangements were made that his release would not take place until after his intelligence value had been fully exploited. The CIA station also went forward with plans to fund a propaganda film featuring Andrade.

On January 23, 1990, CIA headquarters notified the CIA station at post that relocation assistance payments to Andrade's family could continue, but repeated the information that headquarters' documents point to Andrade as probably having planned the Zona Rosa murders. The ambassador and the legal officer have stated that the CIA station chief did not inform them of those concerns; the CIA's station chief contends that he did. Whether the CIA station ever shared that information with the ambassador cannot be established with certainty; nevertheless, the embassy's dealings with Andrade did not change. In fact, the record shows that the CIA-funded propaganda filming was not finished until late June 1990.

On March 27, 1990, about 5 months after the October 24, 1989, interagency group meeting, the post officially requested parole for Andrade by cable to Washington. The cable was drafted and sent forward by the post's consular section which had responsibility for initiating parole requests. The legal officer, however, provided the information used to justify the parole.

Members of the country team, including the ambassador, the deputy chief of mission, the legal officer, and the consul general, all insist that the request was fully discussed by the country team, including the CIA at post. The CIA station chief claims not to have been aware of the cable until 2 days after it was sent, but once he became aware of it he made no effort to alert CIA headquarters to intervene with Justice and attempt to forestall the parole approval.

The March 27 parole request cable was directed to the Visa Office of the Bureau of Consular Affairs and ARA/CEN at State and to the FBI and CIA but was not sent to the Department's Office of the Legal Adviser or to the Assistant U.S. Attorney, who were participants in the interagency group meetings.

Although the cable requesting Andrade's parole had been directed to the attention of ARA/CEN in the Department, neither of the two desk officers responsible for Salvadoran issues recalls handling Andrade's parole case. Similarly, the officer in the Visa Office, who was responsible for transmitting the Department's parole requests to INS, has no recollection of the Andrade parole case. The record shows, however, that the Visa Office transmitted the parole request to INS just 3 days after it arrived at the Department. This was an unusually quick transmittal, as we were told that the normal time frame for such transmittals was 3 weeks to a month. We were unable to determine what prompted this expeditious submission to INS, but the Visa Office's parole officer staunchly asserted that she would not have forwarded a parole request involving national interest considerations such as Andrade's case without the full participation and approval of a responsible desk officer.

Justification

The cable laid out the embassy's case for recommending parole:

- Andrade had cooperated with U.S. and Salvadoran officials and thus was in grave danger of being murdered by his former PRTC comrades;
- although believed by many to be the intellectual author of the Zona Rosa murders, the results of two polygraph examinations and of extensive interrogation by U.S. and Salvadoran officers demonstrate he was not involved in planning or implementation of the murders;
- post supports the Salvadoran Government decision to drop all charges against him in connection with the crime;
- his wife and five children reside in the United States; and
- it is in our national interest to parole him into the United States.

Significantly, the cable did not reference the understanding reached at the October 5, 1989, interagency meeting which required further discussions before Andrade's parole request was proposed and it did not mention that he was the subject of an open U.S. criminal case. Furthermore, the cable stated that the "embassy legal officer made arrangements in the Department and with INS for Andrade at the same time as for the family members...." The Justice OIG investigators could find no evidence at INS that it (INS) had previously cleared Andrade for a parole, and we could find no such evidence in the Department.

The ambassador, the legal officer, and the consul general all stated that it was the responsibility of ARA/CEN to obtain any necessary intra-agency and interagency clearances. "The embassy proposes: the Department disposes" is the general rule. They assumed that such coordination would, indeed, occur. However, this coordination in Washington did not occur.

Conditions

About 4 weeks later, INS approved a public interest parole for Andrade and notified the embassy via a State Department cable on April 25, 1990. During this time, Andrade's family received CIA resettlement assistance payments. Andrade's parole, effective April 27, 1990, was valid for 3 years until April 26, 1993, during which time employment was authorized.

Andrade's departure was delayed until after he completed a CIA-funded propaganda film. The film featured the former insurgent discussing his involvement and eventual disillusionment with the FMLN, which he denounced. According to the embassy legal officer, the CIA asked that Andrade be allowed to stay at the legal officer's residence for about a week during the filming sessions, in order to have a relaxed subject.

Wrongdoing, Negligence, or Breach of Procedures

While we did not find that any specific laws, regulations, or procedures were violated in the handling of Andrade's parole, we did find a failure to exercise reasonable judgment on the part of the embassy legal officer and an inexplicable failure to act by ARA/CEN. We also found a long string of missed communication and coordination opportunities in the Departments of State and Justice and the CIA, any of which could have triggered further interagency discussions and coordination and could have changed the final outcome of the parole. Specifically:

- At post, the legal officer failed to convey to the ambassador that other U.S. Government agencies that attended the interagency meetings in Washington would not approve Andrade's parole until they were convinced that Andrade was not involved in the Zona Rosa murders.
- The embassy legal officer should have included in the parole request cable important information that would have prompted further interagency coordination. The cable failed to mention that there was an open Justice Department criminal case on Andrade or that the question of his parole had not been resolved by interagency discussions. The cable also contained a misleading, if not erroneous, statement indicating that the legal officer had already made arrangements in the Department and in INS for Andrade's parole. Furthermore, the parole request cable was not sent to L/LEI, or to the Assistant U.S. Attorney, as were earlier cables from post dealing with the Zona Rosa case.
- ARA/CEN, as a recipient of the March 27, 1990, parole request cable, and as a participant in the earlier interagency meetings, should have brought to the attention of L/LEI and the Assistant U.S. Attorney the fact that the post was requesting parole for Andrade.

- ARA/CEN failed to adequately coordinate the parole request by not alerting the Visa Office that the Office of the Legal Adviser and the Assistant U.S. Attorney opposed the parole. ARA/CEN also did not inform the Visa Office that there was an open criminal case against Andrade.
- The Office of the Legal Adviser attorney who worked on the Zona Rosa cases and who attended the October 24, 1989, interagency meeting was routinely transferred in January 1990. Due to the change in staff, no coordination of the Andrade case appears to have taken place with the U.S. Attorney's office during the first half of 1990.
- The above State Department missteps were further compounded by apparent communication shortcomings within the Justice Department and the CIA. According to CIA documents, the Assistant U.S. Attorney, after reviewing CIA records in late 1989 and early 1990, concluded that Andrade was involved in planning the Zona Rosa incident. We found no evidence that the Assistant U.S. Attorney notified either the post or the Department of his conclusion.
- The CIA headquarters knew of the Assistant U.S. Attorney's concerns but did not share that information with the State Department. The CIA at post was notified, but whether the chief of station ever shared that information with the ambassador is disputed. The ambassador and the post legal officer claim that the chief of station did not tell them of the Assistant U.S. Attorney's concerns; he says he did.
- The FBI received the parole request, which was placed in its investigative file, but apparently did not inform the Assistant U.S. Attorney.

The unusual circumstances surrounding the parole give the appearance that the legal officer may have tried to deliberately engineer the request in such a way as to avoid review by those who opposed it. The legal officer, the ambassador, and the consul general argue that they followed the normal procedure for processing a parole authorization request as outlined in Department regulations. They addressed the cable to the two offices--ARA/CEN and the Visa Office--that were responsible for obtaining all of the necessary clearances, both intra-agency and interagency.

After carefully reviewing all of the facts and assertions presented, we have concluded that there is not sufficient, credible evidence to support a finding of intentional wrongdoing on the part of the legal officer or any other Department employee. There are also no specific laws or regulations that have been breached by any of the principals at post. For example, there is no regulation that requires an officer at post to personally coordinate matters with other agencies at the Washington level. However, the legal officer, because of the coordinating responsibilities inherent in his position and his participation in the Fall 1989 interagency meetings, should have (1) fully informed the principals at post of the understandings reached at the Washington meetings concerning Andrade's parole, (2) ensured

that the parole authorization request was complete and accurate, and (3) taken affirmative steps to make sure that the Assistant U.S. Attorney and L/LEI were notified of the parole request. His failure to do so, in our opinion, constituted exceptionally poor judgment which if he were still a State Department employee would warrant censure.

ARA/CEN had a clear duty, grounded in the FAM and established State Department practice in national interest parole cases, to coordinate the parole request cable. If any ARA/CEN employee actually received a copy of the parole request and failed to obtain the necessary clearances, then he or she breached an established procedure and was clearly negligent. However, the ARA/CEN employees we interviewed could not recall receiving the cable in March 1989, and we could not find any documentary evidence that any ARA/CEN desk officer actually received the cable.

Current Status

Andrade, at present, is still living in the United States. His status will be discussed in more detail in the Justice Department OIG report.

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V. REPRISAL

Question 8

What specific action and information does the department/agency now have, or may have provided, regarding any reprisal for the Zona Rosa terrorist act?

The Department had a significant amount of information in its files regarding proposed actions in response to the Zona Rosa massacre. On June 20, 1985, a day after the massacre, President Ronald Reagan directed the Secretaries of State and Defense, with intelligence support, to immediately provide whatever assistance the Salvadoran Government needed to find and punish the Zona Rosa terrorists. President Reagan also said that other U.S. military assets would be provided if their assistance was deemed effective in the Salvadoran campaign against the guerrillas. Department information on these efforts is summarized in the following paragraphs.

Considerable pressure was exerted to expedite previously scheduled assistance, including congressionally approved funds to enhance and modernize the Salvadoran military and security forces and to increase the sharing of military intelligence. (This was mentioned previously in the response to Question 7.) Because these programs were designed to aid the Salvadoran Government in its fight against the insurgents, rather than a narrowly focused retaliation against the Zona Rosa perpetrators, we did not consider this type of assistance as reprisal efforts.

During initial discussions about possible retaliations, some Department officials determined that splitting the Central American left wing would be more important than the short-term satisfaction gained by direct military retaliation. Even though retaliation would have been counterproductive to U.S. policy goals in the region, Department personnel laid out various options, including a possible military reprisal conducted by U.S. forces, but only if President Duarte approved.

Some of these options were included in a "terms of reference" prepared for a Special Presidential Emissary who traveled to El Salvador in early July 1985 (2-weeks after the massacre). According to the emissary, U.S. military assistance would be used to quickly respond to intelligence reports to enable the Salvadoran Armed Forces to more effectively disrupt the shipment of insurgent arms. He stated that his visit with President Duarte was designed to propose a full range of U.S. assistance initiatives, and that his visit was not directly prompted by the Zona Rosa incident, even though it was discussed.

According to a Department cable from post, President Duarte was grateful for the United States' assistance in aiding the Salvadoran security forces; however, as fully expected

by Washington, Duarte said the use of U.S. military forces engaged in hostilities on Salvadoran soil was politically unacceptable.

In addition to the options actually discussed by Department officials, a number of rumors circulated in the U.S. and Salvadoran media regarding direct U.S. military involvement. Specifically, there were reports that a U.S. warship fired on the Salvadoran mainland; U.S. forces participated in a secret air war; and U.S. Army Rangers from Fort Lewis, Washington, attacked a guerrilla base camp in El Salvador. We found no information in the Department's files to support any of these reported incidents, and our interviews with Defense and State officials disclosed no evidence that a U.S. military reprisal operation took place.

During our review, we found significant information supporting increased counterinsurgency efforts by the Salvadorans against the PRTC. A July 1985 cable from the CIA to the Department stated that the Salvadoran Government was hunting down the insurgent group responsible for the murders. Another Department memorandum stated that the Salvadoran Government made the capture of PRTC terrorists responsible for the Zona Rosa incident a top priority, as evidenced by several successful raids carried out on suspected guerrilla camps. For example, on June 28, 1985, the Salvadoran Air Force dispatched its so-called pink team (commando assault group) to conduct an operation against a PRTC insurgent base camp with the primary objective of bringing back PRTC documents and prisoners who committed the June 19 murders. In another related operation, on July 29, 1985, the Salvadoran Air Force conducted an aerial photography mission over an area base camp controlled by the PRTC.

Adding credence to these reports were statements by high ranking U.S. and Salvadoran officials who praised the success of the Salvadoran Armed Forces' efforts against the PRTC. According to the transcript of a September 1985 meeting with President Duarte, the Chairman of the U.S. Joint Chiefs of Staff cited the cooperative efforts of the two governments to combat terrorists successfully within the legal framework. In a meeting with the ambassador, President Duarte made a point of mentioning the successful Salvadoran operations mounted against the PRTC.

In summary, information in the files documented the Department's initial discussions of a possible military reprisal led by U.S. forces; however, we found no evidence that a reprisal involving U.S. forces ever occurred. Our information, on the other hand, supported the fact that the Salvadorans specifically targeted a number of raids against the PRTC immediately following the Zona Rosa massacre.

APPENDIX A**Summary of State OIG Responses
to Questions****Question 1: What information does the department/agency have on the perpetrators/intellectual authors of the murders and the subsequent investigation into the matter?**

Department files identified 18 individuals possibly involved in the Zona Rosa massacre. The Department's information on these individuals is summarized in Section II.

Question 2: What action has been taken by officials from the department/agency against the perpetrators/intellectual authors of the murders?

As a non-law enforcement agency, the Department took no direct action against any individual. However, the Department actively assisted both the Salvadoran Government's efforts to identify, prosecute, and incarcerate the perpetrators and the Department of Justice's attempt to develop criminal cases against them. This information is discussed in Section II.

Question 3: What information has the department/agency received from the perpetrators/intellectual authors of the murders?

An officer from Embassy San Salvador was present when two suspects were interviewed; the information received is summarized in Section III.

Question 4: What relationship did the department/agency have, either before or after the murders, with the perpetrators/intellectual authors of the murders or other individuals known or suspected to have been involved?

We found no evidence of a relationship between Department officials and any alleged participants prior to the murders. However, after the murders Embassy San Salvador had direct contact with two of the suspected individuals. This information is discussed in Section III.

APPENDIX A

Question 5: What role has the department/agency played in the investigation of the murders and what priority has been placed on the investigation?

The investigation into the Zona Rosa murders was of the highest priority. While the Government of El Salvador assumed the lead role in the investigation, the Department and other U.S. Government agencies encouraged and fully supported it. This is discussed in Section II.

Question 6: What role the department/agency played in determining whether any of the known or suspected perpetrators/intellectual authors of the murders, or members of their families, were authorized to travel to or take up residence in the United States, and under what conditions and with what justification? In addition, did any wrongdoing, negligence, or breach of procedures occur in allowing known or suspected Zona Rosa perpetrators/intellectual authors of the murders to enter or remain in the United States, and if so by whom? If suspected perpetrators/intellectual authors of the murders are in this country illegally, or without current authorization, what is being done to correct the situation?

Embassy San Salvador, after reaching the conclusion that Pedro Andrade, a Zona Rosa suspect, was not guilty of planning or implementing the Zona Rosa murders, requested that he be allowed to enter the United States. The embassy based its conclusion on the results of polygraph examination, the intelligence value of information Andrade provided, and the threat to his life if he remained in El Salvador. His entry, or parole, into the United States was justified by the State Department as being in the public interest, and became effective in April 1990. Interested officials in some U.S. Government agencies were not made aware of the parole request and may have objected to it at the time. We found no intentional wrongdoing, negligence, or breach of procedures in connection with his parole, but rather a lack of coordination and a breakdown in communication. This is discussed in detail in Section IV.

APPENDIX A

Question 7: What dealings, since the murders, has the agency had with the Government of El Salvador on this matter and, in the course of that relationship, has the Salvadoran Government demonstrated an aggressive effort to identify, prosecute and incarcerate the perpetrators/intellectual authors?

The Government of El Salvador demonstrated an aggressive effort to identify, prosecute, and incarcerate the perpetrators/intellectual authors of the Zona Rosa murders. In addition, the State Department applied strong diplomatic pressure on the Salvadoran Government to ensure that the perpetrators were prosecuted and did not benefit from nationwide amnesty laws passed in 1987 and subsequent years. This information is contained in Section II.

Question 8: What specific action and/or information does the department/agency now have, or may have provided, regarding any reprisal for the Zona Rosa terrorist act?

We found no evidence in our review that a reprisal involving U.S. troops ever occurred. However, the information summarized in Section V describes the counterinsurgency efforts by the Salvadorans against the PRTC.

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APPENDIX B

**Chronology of Events Surrounding
the Zona Rosa Massacre**

1985

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| June 19 | Thirteen people, including 4 off-duty U.S. Marine Security Guards from U.S. Embassy and two U.S. businessmen, are killed in a guerrilla attack at "Chili's," a sidewalk restaurant in San Benito or "Zona Rosa" district of San Salvador. |
| June 20 | President Reagan directs Secretary of State and others in U.S. Government to immediately provide Salvadoran Government with whatever assistance is necessary to find and punish individuals responsible for the attack. |
| June 22 | PRTC claims responsibility for attack. |
| July 2 | Special Presidential Emissary travels to El Salvador to propose a full range of U.S. assistance initiatives for the Salvadoran Government in the fight against the insurgency; U.S. military reprisal offer is declined. |
| July 19 | State Department announces a \$100,000 reward for information leading to the arrest or conviction of those responsible for the murders. |
| August 4 | Juan Miguel Garcia Melendez (Garcia), an alleged support provider, is detained by the U.S. Border Patrol. He implicates Rivas and Ulises and identifies Mario as a key figure in the murders. |
| August 11 | Celio Rivas Bolanos (Rivas), an alleged gunman, and Jose Abraham Dimas Aguilar (Abraham Dimas), an alleged support provider, are arrested. |
| August 16 | Garcia deported to El Salvador and arrested. |

1987

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| November | Salvadoran court dismisses charges against Garcia, Rivas, and Abraham Dimas due to amnesty. Defendants remain in jail pending appeal of court's decision. State Department requests that Department of Justice examine the possibility of a U.S. prosecution if defendants are released. |
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1988

- February** Salvadoran appeals court rejects Salvadoran Attorney General's appeal and upholds trial court's decision to release defendants. Case is later forwarded to President Duarte for review.
- March** Department of Justice determines that a possible U.S. prosecutable case could be made against Rivas if he is released under the amnesty and the U.S. obtains custody over him. First preference, however, remains a Salvadoran prosecution. Justice cited a lack of evidence to prosecute Garcia and Abraham Dimas.
- April 8** President Duarte overturns February 1988 decision of appellate court. Rules that international law takes precedence over state law; therefore, defendants are not entitled to amnesty.
- July 13** Juan Antonio Morales Lucero (Morales), an alleged accomplice in the murders, is arrested.

1989

- May 28** Pedro Antonio Andrade Martinez (a.k.a. Mario Gonzalez) captured by Salvadoran security forces and questioned about his alleged role in the Zona Rosa murders.
- May 31** Andrade leads Salvadoran police to large arms cache.
- June 6** Andrade is arraigned and also meets with the embassy legal officer and Department of Justice legal attaché (an FBI Special Agent) for the first time.
- June 7** Interagency meeting between Departments of State, Justice, and the CIA. All agree that preferred course of action is for the Salvadoran Government to prosecute Rivas. In addition, Andrade should be prosecuted for his alleged role in the murders either in El Salvador or the United States, if possible.
- July 5** Special Salvadoran Investigative Unit administers first of Andrade's two polygraphs. Test was partially successful in substantiating Andrade's statements as to his whereabouts during the weeks immediately prior to the murders. Test results inconclusive as to his role in planning the operation.

APPENDIX B

July 20	SIU administers second polygraph. Results support Andrade's statements that he was not involved in planning the attack.
September 11	Embassy cable to State Department states that embassy has concluded that evidence against Andrade "does not support a finding that he was involved in either planning or implementation of the crime." Embassy requests Justice acknowledge lack of sufficient evidence to prosecute Andrade and forego any request for extradition.
September 13	State Department cable to post states that while Justice does not have sufficient evidence to bring a prosecution against Andrade and is not prepared to arrest him, the U.S. Attorney's office continues to view him as a target of the FBI investigation and a potential defendant.
September 22	CIA Station San Salvador cables CIA headquarters that the station has pursued the "feasibility" of Andrade's entry into the United States.
September 29	Interagency meeting between State, Justice and the FBI regarding Andrade.
October 2	CIA Cable states that headquarters has authorized expenditure of up to \$20,000 for the resettlement of Andrade's family and temporary assistance.
October 5	Interagency meeting between State, Justice, FBI and CIA to discuss possible Andrade parole. According to a memorandum prepared by a CIA attorney in attendance, a general agreement is reached that any proposal to parole Andrade into the U.S. would require further interagency discussions.
October 6	Embassy initiates request to parole Andrade's three children into the United States.
October 19	INS approves parole of Andrade's children.
October 24	Andrade's parole discussed at an interagency meeting.
October 25	Andrade's wife and children travel to the United States.
November 11	FMLN "final offensive." About 3,000 heavily armed guerrillas deployed within the capital in an effort to topple the elected government. Offensive continues until late December.

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- November 15 Federal grand jury in U.S. returns a sealed indictment against Rivas charging him with murder and conspiracy in connection with Zona Rosa massacre.
- November 15-16 Murder of six Jesuit priests by right wing death squad. Investigation becomes embassy legal officer's top priority.
- December 21 CIA's Office of General Counsel concludes there is substantial intelligence that Andrade was involved in the Zona Rosa attack.

1990

- January 3 CIA headquarters cable to station at post states "Assistant U.S. Attorney believes Andrade involved despite polygraph results and any CIA proposal to provide assistance to him would be met with strong resistance."
- January 15 Salvadoran judge authorizes Andrade's release from prison. CIA station proceeds to fund Salvadoran propaganda film featuring Andrade.
- March 27 Embassy cable to State Department requests parole for Andrade. Justification for parole includes (1) post does not believe Andrade was involved in Zona Rosa murders and supports Salvadoran Government's decision to drop charges against him and (2) Andrade is in clear and immediate danger of losing his life because he has provided valuable information to the United States. (Note: Cable is not addressed to L/LEI at State nor to the Assistant U.S. Attorney.)
- March 30 Letter from State Department Visa Office to INS. Requests humanitarian parole for consideration by Attorney General. Letter claims that request has been reviewed by State and is within appropriate guidelines.
- April 25 Cable from State Department authorizes post to process Andrade case to conclusion. Also states that INS wants the following to be written on boarding letter: "Parole in the public interest for three years from 4/27/90 to 4/26/93. Employment authorized."
- May Trial begins in El Salvador against three defendants arrested in 1985 (Garcia, Rivas, and Abraham Dimas).

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June 19	Statute of limitations runs on United States prosecution of Andrade.
June 26	Salvadorans complete CIA funded propaganda filming of Andrade.
June 28	CIA Station cable states that Andrade was leaving San Salvador for the United States on parole status arranged by embassy, through State, in coordination with concerned agencies in the United States
June 28	Probable date Andrade enters the United States. (Note: Elapsed time between parole approval and Andrade's arrival in U.S. is more than 60 days.)
July 19	Cable from State's Office of Legal Advisor to embassy requesting answers to several questions regarding Andrade's parole.
August 1	Memorandum from ARA/CEN to L/LEI states that embassy legal officer has provided the following information in response to July 19 request: (1) legal officer requested consular section to initiate Andrade's parole request; (2) request was coordinated with consular section at post; (3) no promises were made to Andrade with respect to parole; and (4) Andrade was told he had no immunity from prosecution if it was discovered he had a role in the Zona Rosa murders.

1991

May	Garcia, Rivas, and Abraham Dimas convicted by Salvadoran Court for their roles in Zona Rosa massacre. Rivas sentenced to 25 years for subversive association, cooperation in subversive propaganda, and acts of terrorism resulting in the deaths of several persons. Abraham Dimas sentenced to four years for acts in support of terrorism. Garcia sentenced to 11 years for cooperating in subversive propaganda, subversive association, and acts in support of terrorism.
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1992

March 5	Routine appeals process confirms 25-year sentence of Rivas, reduces Garcia's 11-year sentence to 7 ½ years, and orders the release of Abraham Dimas who had served more than his 4-year sentence.
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APPENDIX B**1993**

- February** Garcia released.
- April 26** Andrade's parole expires. He is now an "overstay" without legal authority to remain in the United States.
- August 18** Morales found not guilty and released after serving about 5 years in pre-trial detention.

1995

- May 21** Gilberto Osorio appears on the CBS television show "60 Minutes."
- September 7** Rivas released from prison under 1995 Juvenile Code, which provides that minors cannot be sentenced to more than 7 years.
- December 6** Osorio interviewed by FBI and denies any involvement in Zona Rosa murders.

1996

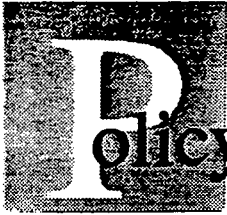
- January** Rivas applies to Australia for immigration. Embassy San Salvador expresses U.S. Government's concern; application still pending.
- February 15** Cable from FBI Director states that INS is currently reviewing its files on Andrade to exclude and deport him.
- March 27** INS attorney meets with State officials to gather information pursuant to exclusion proceedings against Andrade.

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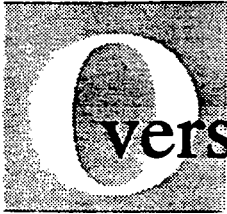
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versight Report

**The 1985 Zona Rosa Massacre
and Its Aftermath**

Report Number PO 96-015

September 18, 1996

**This version of Inquiry Report No. PO 96-015
has been revised to omit
classified information.**

**Office of the Inspector General
Department of Defense**

Additional Copies

To obtain additional copies of this inquiry report, contact Colonel Jeff Cain, USAF, Inquiry Program Director, at (703) 604-8753 (DSN 664-8753) or Mr. Miles L. Kara, Inquiry Project Manager, at (703) 604-8757 (DSN 664-8757).

Suggestions for Future Inquiries

To suggest ideas for or to request future inquiries, contact the Planning and Coordination Branch, Audit Planning and Technical Support Directorate, at (703) 604-8939 (DSN 664-8939) or FAX (703) 604-8932. Ideas and requests can also be mailed to:

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ACRONYMS

CAJIT	Central America Joint Intelligence Team
CIA	Central Intelligence Agency
CMC	Mardoqueo Cruz Commandos
DIA	Defense Intelligence Agency
DoD	Department of Defense
DoJ	Department of Justice
DoS	Department of State
FBI	Federal Bureau of Investigation
FMLN	Farabundo Marti National Liberation Front
GOES	Government of El Salvador
J3	Director for Operations
JCS	Joint Chiefs of Staff
*	*
NIS	Naval Investigative Service
*	*
PRTC	Partido Revolucionario De Trabajadores Centroamericanos

*This version of Inquiry Report No. PO 96-015 has been revised to omit classified information.



**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884**

September 18, 1996

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Inquiry Report on the 1985 Zona Rosa Massacre and Its Aftermath (Report No. PO 96-015) (U)

(U) We are providing this inquiry report for information and use. We performed the inquiry in response to a request from the Senate Select Committee on Intelligence. We considered Department management comments on a draft of this report in preparing the final report.

(U) The Chairman, Vice Chairman, and another member of the Senate Select Committee on Intelligence requested that we perform the inquiry as part of a Government-wide review in cooperation with the Inspectors General of the Department of State, Department of Justice, and Central Intelligence Agency. Accordingly, the Inspectors General are forwarding the four reports that constitute the Government-wide review to the Chairman, Senate Select Committee on Intelligence, under a separate, collective memorandum of transmittal.

(U) We appreciate the courtesies extended to the inquiry staff. Questions on the inquiry should be directed to Colonel Jeff Cain, USAF, Inquiry Program Director, at (703) 604-8753 (DSN 664-8753) or Mr. Miles L. Kara, Inquiry Project Manager, at (703) 604-8757 (DSN 664-8757). See Appendix B for additional report distribution. The inquiry team members are listed inside the back cover.

**Russell A. Rau
Assistant Inspector General
Policy and Oversight**

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Support**

Office of the Inspector General, DoD

Report No. PO 96-015
(Project No. 60S-5037)

September 18, 1996

The 1985 Zona Rosa Massacre and Its Aftermath**Executive Summary**

(U) Introduction. On February 22, 1996, the Chairman, Vice Chairman, and another member of the Senate Select Committee on Intelligence requested that the Secretary of Defense, the Secretary of State, the Attorney General, and the Director, Central Intelligence Agency, direct their respective Inspectors General to conduct a Government-wide review of the facts surrounding the Zona Rosa massacre, in which four off-duty U.S. Marine embassy security guards and two other Americans were killed by urban guerrilla commandos in San Salvador, El Salvador on June 19, 1985. Our report discusses the Zona Rosa massacre and its aftermath only from the perspective of the Department of Defense (DoD). The report should be read in conjunction with the reports of the other Inspectors General to acquire a complete picture of the facts surrounding the massacre from the perspective of the U.S. Government as a whole.

(U) Inquiry Objectives. The Senate Select Committee on Intelligence provided eight specific objectives for the Government-wide review in its February 22, 1996, letters. The Committee asked that the inquiry of each of the Inspectors General determine:

1. What information the department/agency has on perpetrators/intellectual authors of the murders and the subsequent investigation into the matter.
2. What action has been taken by officials from the department/agency against the perpetrators/intellectual authors of the murders.
3. What information the department/agency received from the perpetrators/intellectual authors of the murders.
4. What relationship the department/agency had, either before or after the murders with the perpetrators/intellectual authors of the murders or other individuals known or suspected to have been involved.
5. What role the department/agency has played in the investigation of the murders, and what priority has been placed on the investigation.

6. What role the department/agency played in determining whether any of the known or suspected perpetrators/intellectual authors of the murders, or members of their families, were authorized to travel to or take up residence in the United States, and under what conditions and with what justification. In addition, whether or not any wrongdoing, negligence, or a breach of procedures occurred in allowing known or suspected Zona Rosa perpetrators/intellectual authors of the murders to enter or remain in the United States, and if so by whom. If suspected perpetrators/intellectual authors of the murders are in this country illegally, or without current authorization, what is being done to correct the situation?

7. What dealings, since the murders, the agency has had with the government of El Salvador on this matter, and in the course of that relationship did the Salvadoran government demonstrate an aggressive effort to identify, prosecute and incarcerate the perpetrators/intellectual authors.

8. What specific action and or information did the department/agency now has, or may have provided, [sic] regarding any reprisal for the Zona Rosa terrorist act?

(U) **Inquiry Results.** We reached the following conclusions based on our review and the information provided:

o (U) There were reportedly at least 15, and as many as 19 or more, participants in the Zona Rosa massacre. The direct participants reportedly included eight individuals, a four-member strike team and what was probably a four-member cover team; however, six names were associated with the cover team. The indirect participants reportedly included at least seven, and as many as nine or more, individuals in the planning and direction group, the surveillance and transportation group, and the support group. There was probably only one planner and director of the massacre, although two other names have been mentioned. The surveillance and transportation group included one or more unknown individuals. The support group was made up of five individuals. Of the 15 to 19 or more participants, 3 were reportedly killed--1 in the massacre and 2 in Salvadoran air strikes--6 were apprehended, and the remaining 6 to 10 or more remained at large. Of the six apprehended, three were tried and convicted, one was tried and acquitted, one was never indicted, and the fate of one is unknown (Part II).

o (U) The DoD did not participate in either criminal investigation or prosecution of those apprehended. However, three DoD organizations supported the Central Intelligence Agency Chief of Station in assisting Salvadoran investigators. The Defense Intelligence Agency's Central American Joint Intelligence Team sent an analyst to El Salvador to help develop information on the guerrilla faction that took responsibility for the massacre. *

The Naval Investigative Service Resident Agent in San Diego was apparently the first to alert concerned agencies of a break in the case. The Naval Investigative Service also opened

*This version of Inquiry Report No. PO 96-015 has been revised to omit classified information.

a case in 1987 to assist a Federal Bureau of Investigation prosecutorial investigation. There were only two instances in which DoD personnel had contact with the Salvadoran government in connection with the massacre, meetings with President Duarte by the Commander in Chief, U.S. Southern Command, and the Chairman, Joint Chiefs of Staff, in 1985; neither meeting was apparently related to Salvadoran efforts to identify, prosecute and incarcerate the individuals involved in the massacre (Part II).

o (U) The DoD had no relationship with anyone known or suspected to have been involved in the massacre, either before or after the murders. DoD personnel received no information directly from any individuals connected with the massacre, with the exception of the Naval Investigative Service Resident Agent's participation in the interview of one individual. The DoD did, however, receive information about the massacre from that individual and two others through Central Intelligence Agency reporting and Salvadoran interrogation reports. The DoD also received intelligence information on the guerrilla movement from a fourth individual through Central Intelligence Agency reporting and Salvadoran interrogation reports (Part III).

o (U) No DoD organization or official played any role in determining whether any of the known or suspected perpetrators or intellectual authors of the Zona Rosa massacre, or members of their families, would be authorized entry into the U.S. There is no indication that, prior to the fall of 1995, any DoD personnel were aware that one of the participants in the massacre, Pedro Andrade, had been paroled into the U.S. or that his family had received CIA funds in return for the intelligence information he provided. In September 1989, the U.S. Marine Corps did assist the Federal Bureau of Investigation by putting an aircraft on alert to transport two of the massacre participants to the U.S., one for prosecution and one as a witness; however the aircraft was not used (Part IV).

o (U) As part of the interagency response to the massacre, the DoD expedited the delivery of essential Salvadoran security assistance items and recommended asking Congress for a supplemental military assistance appropriation for Fiscal Year 1985. The DoD also planned and rehearsed a military retaliation option in response to the massacre. The concept of the operation, called Operation NINE IRON, was to conduct air strikes on guerrilla base camps in El Salvador, employing * gunships from *
* As part of the planning effort, two armed and ready-to-fire aircraft were over El Salvador on two consecutive nights with precise targets to be engaged, if directed, beginning 11 days after the massacre. The aircraft were never directed to engage a target. There is no evidence that weapons were fired in El Salvador, and Operation NINE IRON was terminated after two rehearsal missions. We also found no evidence that U.S. Army Rangers ever conducted a retaliation raid against a terrorist training camp in El Salvador, as reported in the *Seattle Post-Intelligencer* on June 15, 1995, or that a U.S. Navy warship fired into El Salvador in support of a Salvadoran military unit engaged in battle, as alleged by two guerrilla radio stations in early January 1986 (Part V).

*This version of Inquiry Report No. PO 96-015 has been revised to omit classified information.

o (U) Salvadoran military forces did conduct retaliation operations against the guerrilla faction responsible for the massacre, supported by information from U.S. intelligence agencies. By mid-1987, the faction's combatant strength had declined 41 to 44 percent from its mid-1985 level of 530 to 650. The urban commando unit that had carried out the massacre had been almost completely destroyed, and the unit was never reactivated (Part V).

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Part I - Introduction

Introduction (U)

Background (U)

(U) On the evening of June 19, 1985, a group of armed men attacked Chili's Restaurant in the Zona Rosa district of San Salvador, El Salvador, an attack commonly referred to as the Zona Rosa massacre. The primary target of the attack was a group of off-duty U.S. Marine embassy security guards sitting at a sidewalk table. Four of the Marines, two American civilians, and six others were killed. On June 21, the "Mardoqueo Cruz" urban guerrilla commandos took responsibility for the massacre. The Mardoqueo Cruz Commandos (CMC) were a unit in the military wing of the Partido Revolucionario De Trabajadores Centroamericanos (PRTC), one of the five factions in the Farabundo Marti National Liberation Front (FMLN). At the time, the FMLN was conducting an insurgent war against the Government of El Salvador (GOES). The war, which began in the late 1970s, ended in January 1992, when a peace agreement between the FMLN and the GOES was signed.

(U) On February 22, 1996, the Chairman, Vice Chairman and another member of the Senate Select Committee on Intelligence requested that the Secretary of Defense, the Secretary of State, the Attorney General, and the Director, Central Intelligence Agency, direct their respective Inspectors General to conduct a Government-wide review of the facts surrounding the Zona Rosa massacre. In March 1996, the Inspectors General agreed to cooperate in such an inquiry and formed an interagency Zona Rosa Working Group to coordinate the separate, but parallel, efforts of each Inspector General's inquiry team. Our report discusses the Zona Rosa massacre and its aftermath only from the perspective of the Department of Defense (DoD). The report should be read in conjunction with the reports of the other Inspectors General to acquire a complete picture of the facts surrounding the massacre from the perspective of the U.S. Government as a whole.

Objectives (U)

(U) The Senate Select Committee on Intelligence provided eight specific objectives that shaped our cooperative, Government-wide review of the facts surrounding the Zona Rosa massacre in its February 22, 1996, letters. The Committee asked that the inquiry of each of the Inspectors General determine:

1. What information the department/agency has on perpetrators/intellectual authors of the murders and the subsequent investigation into the matter.

Introduction (U)

2. What action has been taken by officials from the department/agency against the perpetrators/intellectual authors of the murders.
3. What information the department/agency received from the perpetrators/intellectual authors of the murders.
4. What relationship the department/agency had, either before or after the murders with the perpetrators/intellectual authors of the murders or other individuals known or suspected to have been involved.
5. What role the department/agency has played in the investigation of the murders, and what priority has been placed on the investigation.
6. What role the department/agency played in determining whether any of the known or suspected perpetrators/intellectual authors of the murders, or members of their families, were authorized to travel to or take up residence in the United States, and under what conditions and with what justification. In addition, whether or not any wrongdoing, negligence, or a breach of procedures occurred in allowing known or suspected Zona Rosa perpetrators/intellectual authors of the murders to enter or remain in the United States, and if so by whom. If suspected perpetrators/intellectual authors of the murders are in this country illegally, or without current authorization, what is being done to correct the situation?
7. What dealings, since the murders, the agency has had with the government of El Salvador on this matter, and in the course of that relationship did the Salvadoran government demonstrate an aggressive effort to identify, prosecute and incarcerate the perpetrators/intellectual authors.
8. What specific action and or information did the department/agency now has, or may have provided, [sic] regarding any reprisal for the Zona Rosa terrorist act?

Scope and Limitations (U)

(U) Scope. To achieve those objectives with regard to the DoD, the Assistant Inspector General for Policy and Oversight, DoD, requested that appropriate DoD organizations search their files and provide the Inspector General, DoD, with all documents and other information--regardless of classification or compartmentation--covering the period from May 1, 1985, to April 1, 1996 concerning:

Introduction (U)

- o The actions of the known or suspected perpetrators or intellectual authors of the Zona Rosa killings, to include any relationship between any individual known or suspected to be involved in the killings and DoD military or civilian personnel before or after the crime; any information received by DoD personnel from any individual known or suspected to be involved in the killings; and any involvement by DoD personnel with the travel to or residence in the U.S. by any of the individuals or others known or suspected to be involved in the killings;

- o The investigation of the crime, to include the efforts of the GOES to identify, apprehend, prosecute, and incarcerate the perpetrators and intellectual authors of the crime; any involvement by DoD military or civilian personnel in the investigation; and any contacts by DoD personnel with the GOES regarding the investigation;

- o The planning, approval, or execution of any military retaliation actions against the perpetrators and intellectual authors of the crime or against other members of the PRTC guerrilla faction, to include any contact by DoD military or civilian personnel with the GOES regarding unilateral or joint retaliation actions; any involvement by DoD personnel in the planning or execution of a unilateral GOES retaliation action; and the impact of any retaliation action on the perpetrators and intellectual authors of the crime or other members of the PRTC; and

- o Any other information that is related in any way to the Zona Rosa killings, those individuals known or suspected to be involved, or the response of the U.S. Government and the GOES to the killings.

(U) The Assistant Inspector General for Policy and Oversight received approximately 3,500 pages of data from the DoD organizations that had information related to the Zona Rosa massacre. Members of the Assistant Inspector General's Zona Rosa inquiry team reviewed all the documents received, as well as the documents held by the Department of Justice, the Department of State, the Central Intelligence Agency, the Ronald Reagan Presidential Library, and the National Security Council that have a bearing on the activities of DoD organizations or employees associated with the Zona Rosa massacre and its aftermath.

(U) The Zona Rosa inquiry team also interviewed, jointly with other members of the interagency Zona Rosa Working Group in many cases, nearly 100 current and former U.S. Government employees, to include:

- o The Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and civilian officials and military officers assigned to the Office of the Secretary of Defense, the Joint Staff, the Defense Intelligence Agency, the National Security Agency, and Headquarters, U.S. Southern Command, in 1985;

Introduction (U)

o the Commanders of the U.S. Military Group and the Defense Attaches in El Salvador in 1985 and 1989-1990;

o Air Force and Army officers assigned to special operations units and headquarters elements in 1985; and

o Department of Justice, Department of State, and Central Intelligence Agency officials who dealt with some aspect of the Zona Rosa massacre or its aftermath, either in El Salvador or Washington, from 1985 through 1990.

(U) **Limitations.** We encountered two limitations during our inquiry. First, we found little documentation outside of the Joint Staff related to consideration of a U.S. military reprisal operation immediately after the massacre. The option was considered very sensitive and was closely held. Few written records were created, and we determined that the records held by U.S. Southern Command had been routinely destroyed several years prior to the initiation of our inquiry.

(U) The second limitation that we encountered was the impact of time on the memories of the individuals involved in the consideration of a U.S. military retaliation operation. Those we interviewed, particularly the higher level officials with broad responsibilities, found it difficult or impossible to recall events that occurred or the timing and details of actions taken during a brief period 11 years ago. Their ability to recall was complicated by three factors: no U.S. military retaliation option was ever executed; the hijacking of Trans World Airlines Flight 847, ongoing in Beirut from June 14 through June 30, overlapped Zona Rosa massacre response planning; and, the kidnapping of Salvadoran President Duarte's daughter in September followed the massacre so quickly. Since the U.S. military retaliation option was not executed, actions related to it fell into the routine category and made no lasting impression. For some of those we interviewed, the hijacking overshadowed the massacre, and they have only vague recollections of the massacre response; others confused actions in response to the kidnapping with those in response to the massacre. As a result, we often received accounts of the same action or series of actions that conflicted or varied significantly.

Structure of Report (U)

(U) Our report follows the general format established by the interagency Zona Rosa Working Group to facilitate review of each Inspector General's report in conjunction with the other three. We address the Senate Select Committee's eight objectives in the context of four topic areas:

Introduction (U)

- o The criminal investigation and prosecution of those involved in the massacre;
- o The DoD relationship with any of those involved;
- o The entry of anyone involved into the U.S.; and
- o Other U.S. and Salvadoran actions in response to the massacre.

(U) To the extent possible, we discuss our findings in each topic area chronologically. In Appendix A, we provide a brief response to each of the Senate Select Committee's eight objectives.

**PART II - Criminal Investigation and
Prosecution of Those Involved in the
Massacre (U)**

Criminal Investigation and Prosecution (U)

(U) This section addresses Objectives 1, 2, 5 and 7 listed in Part I. To set the stage for the remainder of the report, we begin by describing the Zona Rosa massacre operation from the perspective of the urban guerrillas involved, using the information held by DoD. Next, we discuss the limited role that the DoD played in the ensuing criminal investigation and prosecution efforts. We conclude the section with a list of all individuals connected with the Zona Rosa massacre who appear in DoD files, providing in capsule form the information DoD holds on each.

A Reconstruction of the Zona Rosa Massacre Operation (U)

(U) **Planning and Preparation.** We were able to reconstruct the Zona Rosa massacre operation by using the information provided by those involved contained in Salvadoran interrogation reports, statements made to Salvadoran courts, and Central Intelligence Agency (CIA) intelligence information reports contained in DoD files. We caution that we did not assess the accuracy or validity of the information in those sources. Based on the information held by DoD, the idea of the Zona Rosa operation seems to have originated at the end of March 1985. The urban leaders of three of the five FMLN factions had been meeting regularly to discuss and coordinate strategy since the fall of 1984. At a meeting on March 27, 1985, in a Zona Rosa restaurant, the three urban leaders were joined for the first time by the PRTC's urban leader, Pedro Antonio Andrade Martinez.¹ Andrade was the Commander of the Metropolitan Front, the PRTC's military organization in the San Salvador area, and Regional Secretary of the Fifth PRTC Region, the urban political organization. One of the factional leaders present at the March 27 meeting, Americo Mario Araujo Ramirez, was captured by Salvadoran authorities in August 1985. Araujo says that when a group of Americans came into the restaurant, Andrade--whom he knew by the pseudonym, "Mario Gonzalez"²--commented, "How many morsels." Then they joked about whether it would be a good job for Andrade's organization or that of "Tomas." In the end, they flipped a coin over the issue, and Andrade won.

¹Salvadorans use both patronymic and matronymic surnames. We will normally refer to them by using only the patronymic surname, which is the first of the two surnames. We also use the Spanish spelling of first names, which often differ from the English spelling--William for William and Ulises for Ulysses, for example.

²FMLN guerrillas almost always used one or more pseudonyms to hide their identity. In our report, the names in quotation marks are pseudonyms.

Criminal Investigation and Prosecution (U)

(U) Although Andrade did not mention attacking Americans in the Zona Rosa again during FMLN leadership meetings prior to June 19, he apparently decided to follow up on the joking exchange. As Commander of the PRTC Metropolitan Front, he also commanded the Mardoqueo Cruz Urban Commandos (CMC). At that point, the CMC probably consisted of three or more independent cells of four or five persons each. Andrade chose to use two of the cells in the Zona Rosa operation. One cell was led by Ismael Dimas Aguilar, alias "Ulises;" the other was led by "Walter," whose true identity has never been determined.

(U) Ismael Dimas' Cell Ulises was made up of his deputy, "Julio," William Celio Rivas Bolanos, and Rivas' cousin, Jose Antonio Bolanos Rivas, alias "Macias." A fifth cell member, "Tiamina," deserted the PRTC and left the country in April or May 1985. Ismael Dimas, who was not employed, operated Cell Ulises from a PRTC-financed upholstery shop in San Salvador. The shop was run by Rivas and Juan Miguel Garcia Melendez, alias "Jose." Garcia was a PRTC member and aware of the urban guerrilla activities of Ismael Dimas, Rivas and others, but he did not take part in them and never met any CMC members but Ismael Dimas and Rivas.

(U) In addition to "Walter," Cell Walter consisted of "Pepe," "Chepe," and another cousin of Rivas, Angel Serrano Bolanos, alias "Ojo de Gallo" or "Elmer." However, the latter two were in Cuba for training in June 1985. Cell Walter did not frequent the upholstery shop, and "Walter" may have used another cover operation.

(U) In preparation for the operation, Andrade, Ismael Dimas, "Julio," and probably other CMC members began to observe the Zona Rosa over a period of weeks. They determined that off-duty Marine security guards from the U.S. Embassy routinely spent evenings in the Zona Rosa, at the restaurant in which Andrade had first met with the FMLN urban leadership and at others immediately adjacent to it.

(U) In early May, Andrade and Ismael Dimas delivered a supply of weapons to the house of Pedro Rodriguez Guardado in San Salvador for safekeeping. Rodriguez and his teenage son, Pedro Vladimir, were PRTC members. According to Vladimir, who was captured when the arms cache in his house was discovered in January 1986, Ismael Dimas visited on June 14 and told him to prepare six rifles, a submachine gun and two hand grenades for a later pick up. He and Andrade returned on June 16 to collect the weapons and hand grenades.

(U) On June 14, Ismael Dimas also began to notify his cell members that an operation was pending, telling Rivas that they were about to "knock over" some Americans and he should be ready. He told his brother, Jose Abraham Dimas Aguilar, that he would be out of town for a few days, because he and his

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companions were about to carry out a "delicate little job." Abraham Dimas was not a PRTC member, but he allowed Ismael Dimas to use the service station he operated for meetings of Cell Ulises and was generally aware of the cell's activities.

(U) When Ismael Dimas arrived at the upholstery shop on June 19, he told Rivas that the operation he had mentioned on June 14 would take place that evening. He directed that Rivas meet him at 5:00 P.M. at Abraham Dimas' service station to finalize the details. Bolanos, Rivas' cousin and fellow member of Cell Ulises, worked at the service station. Ismael Dimas arrived on time. He told Rivas and Bolanos only that he would give them final instructions when he met them at the Cafe San Pedro at 8:00 P.M.

(U) When Cell Ulises needed a vehicle for one of its operations, it was usually stolen just before the operation began. That was also true in the case of the Zona Rosa massacre operation. Just before 6:00 P.M., two men about 22 years old, carrying short weapons, approached a man parked on a San Salvador street in his Toyota Hilux pickup truck. They ordered him out of the pickup, got in and drove off. The two men were never identified, but they may have been among the CMC members who participated in the actual attack later that evening.

(U) **Conduct of the Operation.** Rivas and Bolanos waited almost an hour for Ismael Dimas at the Cafe Don Pedro. When Ismael Dimas arrived about 8:50 P.M., he was in the cab of the stolen pickup with a driver whom Rivas did not know. In the back of the truck were "Julio," "Walter," "Pepe," and another man Rivas did not know, but who may have been Juan Antonio Morales Lucero--recently recruited into the PRTC by an old acquaintance, "Walter." While the others stayed with the truck, Ismael Dimas came over to Rivas and Bolanos. He said that he and "Julio" had already located their target, the Americans, at a cafe in the Zona Rosa. Giving them weapons, a knapsack, and a camouflaged cap and shirt, he told them that Cell Ulises would be the strike team and they should fire when he did. Cell Walter would provide covering fire for the strike team.

(U) As they talked, Rivas noticed a gray Lancer automobile with tinted windows park in a nearby parking lot. Pedro Andrade got out and came over to Ismael Dimas. The two conversed out of earshot of the others for a few minutes, possibly cross-checking final details. Then, Andrade returned to his car and drove off.

(U) Ismael Dimas returned to the pickup, and the eight-man attack force began driving slowly towards the Zona Rosa. As they drove, all but the driver put on the camouflaged clothing, which made them appear to be members of the Salvadoran military. Near the Savior of the World monument, they met a light blue car that honked at them twice--probably a signal from one or more

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unknown CMC members who had been observing the Zona Rosa that all conditions in the area were as planned. The driver of the pickup returned the signal and increased his speed. A few minutes after 9:00 P.M., they turned north on El Hippodromo Boulevard and arrived in the Zona Rosa.

(U) The pickup stopped just beyond Chili's Restaurant, where the off-duty Marines were sitting at a sidewalk table. Everyone got out of the truck but "Pepe" and the driver, who positioned themselves to engage any approaching Salvadoran security forces. "Walter" and the other member of his cover team began firing on the guards at the Brazilian Embassy across the street from Chili's to keep them occupied. Meanwhile, Ismael Dimas led his four-man strike team toward Chili's and began firing on the Marines. Rivas hesitated, somewhat disoriented, and "Julio" shouted at him, "There, buddy," indicating the table occupied by the Marines. Rivas then began firing, but "Julio" crossed his line of fire and was hit; he fell to the ground, wounded.

(U) When all the Marines appeared dead, Ismael Dimas called, "Retreat," but as the strike team reached the truck, he realized that "Julio" was missing. When he saw that "Julio" was lying in the street in front of Chili's, he called, "Cover me," picked up "Julio" and his weapon, and put "Julio" in the truck. All eight of the attack force got in the pickup, which then departed the scene northward on El Hippodromo Boulevard.

(U) Following the usual pattern after an operation, the members of the attack force were dropped off in various spots, leaving the weapons and camouflaged clothing on board. "Julio" was still in the pickup when Rivas was let off, but shortly after the massacre, some unidentified men delivered him to a Red Cross office. A Red Cross representative took "Julio" to a hospital, but he died later that night. Ismael Dimas or "Walter" probably secured the weapons and clothing in a safe house. The pickup was left on a city street, where it was found the next day; one of the hand grenades had been forgotten, and "Julio's" bloodstains were found in the truck bed.

(U) The final phase of the operation took place on June 21, when an unidentified man, who said he belonged to the PRTC, called a French news agency in San Salvador. The caller told the news agency that PRTC urban commandos had carried out the attack in which the four Marines had been killed. He read a communique warning U.S. military personnel in El Salvador that "another Vietnam awaits you." A copy of the communique was later found in a phone booth. It was signed by "Fernando Gallardo," another pseudonym of Pedro Andrade.

(U) **Post-operation Assessment.** At the upholstery shop on the morning of June 20, Ismael Dimas and Rivas went back over the operation in the presence of Juan Garcia. Dimas asked Rivas why he had shot "Julio." Afraid to admit he had, Rivas said he did not know how "Julio" had been wounded. Over the

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next few days, members of Cell Ulises also talked about the operation at the service station of Ismael Dimas' brother, Abraham, who listened to their conversations. Ismael Dimas told Rivas that he had instructions not to carry out any terrorist activities for at least two months, as a security measure to avoid falling into the hands of the Salvadoran military.

(U) At an FMLN urban leadership meeting on July 1 or 2, Americo Araujo asked Andrade about the operation in the Zona Rosa on June 19. Andrade replied that the job had gone very fast and that the reason for the high number of casualties was the fact that there was a crossfire. His comments led Araujo to believe that Andrade had carried out the operation without the authorization of the FMLN. Another FMLN urban leader captured in August 1985, Hector Antonio Acevedo Moreno, said that he had last seen Andrade at a leadership meeting on July 10. According to the version of the Zona Rosa operation Andrade had given him, Andrade had been one of the leaders in the attack. Andrade said that the operation had been successful, but that politically it had been negative because the foreign media had condemned the attack; in addition, the PRTC had suffered serious blows, such as the loss of "Arlen Siu" and "Arnulfo" ("Arlen Siu," leader of the Eastern Region Political-Military Command and ninth ranking member of the PRTC, was killed on June 26, 1985; "Arnulfo Ramirez," commander of the Southeastern Front in the Eastern Region, was killed on August 4, 1985).

(U) **Alternative Accounts.** Juan Antonio Morales Lucero was captured by Salvadoran authorities in July 1988 and quickly confessed to participating in the Zona Rosa massacre operation. However, his account of the operation differed significantly from that of Rivas, who in August 1985 had been able to reconstruct the operation and had taken a polygraph test indicating truthfulness regarding his participation in it (but not about those who had been involved in it with him). According to Morales, he joined the CMC in June 1985 through his old acquaintance, "Walter." On June 16, "Walter" told him he had been chosen to participate in an operation and should be at the Cafe Don Pedro at 8:30 P.M. that night. At that time, "Walter," Ismael Dimas (whom he knew as "Ulises"), "Joel," "Manuel," and a driver he did not know arrived at the cafe in a pickup truck. In the truck, they put on camouflaged T-shirts and were given a weapon. Then they drove through the Zona Rosa, but "Walter" said their target was not in sight. The same six individuals repeated the same operation for the next two nights. Then, as they drove through the Zona Rosa about 9:00 P.M. on June 19, the truck stopped in front of their target. Only Ismael Dimas and "Walter" fired. "Joel" and "Manuel" provided cover out front, while Morales and the driver stayed with the truck about a half-a-block away. After about two minutes, the others returned to the truck, and they departed. DoD holds only one translated Salvadoran National Police interrogation report on Morales; the Department has no information that indicates if, or how, the Salvadoran authorities were able to resolve the differences between the two accounts of the operation.

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(U) Pedro Andrade gave a different account of his role in the Zona Rosa massacre after his capture by Salvadoran authorities in May 1989. He denied that he was more than "tangentially" involved in the planning and authorization of the Zona Rosa massacre operation. Instead, he said Jose Manuel Melgar, his superior as Commander of the Central Region and Chief of Staff of the PRTC's military wing, had come to San Salvador in June 1985 to direct the attack personally. At his arraignment in El Salvador in June 1989, Andrade testified that he had only tried to have a doctor ready at a safe house for an action he had been told was being planned against the "white boys." Based on his testimony, the Salvadoran court ruled that there was little basis for his prosecution in the Zona Rosa massacre case. On the other hand, the United Nations Truth Commission for El Salvador said in its March 1993 report that there was sufficient evidence to conclude that Andrade was among those who planned the Zona Rosa massacre. The Truth Commission was established under the terms of the January 1992 peace accord between the Salvadoran government and the FMLN to discover and publish the truth concerning acts of violence committed by both sides and based its findings on a large volume of data received from all parties involved in the war.

DoD's Role in the Criminal Investigation and Prosecution (U)

(U) **Nature of the DoD Role.** The DoD played no direct role in either the Salvadoran criminal investigation or the prosecution of any of those apprehended in connection with the massacre, with the one exception noted below. DoD officials took no action against any individual identified as an actual or suspected perpetrator or intellectual author of the Zona Rosa massacre, but as discussed in Part V below, they did take or consider taking actions against the PRTC and other FMLN factions. However, elements of the Department did support the efforts of other U.S. agencies and the GOES to apprehend and prosecute those responsible.

(U) **Support to the Salvadoran Effort.** Three DoD organizations provided support to efforts of the Central Intelligence Agency's Chief of Station in San Salvador to assist Salvadoran investigators seeking to identify the individuals responsible for the massacre.

(U) The first organization was the Central America Joint Intelligence Team (CAJIT) in the Defense Intelligence Agency (DIA), which was formed by direction of the Secretary of Defense in April 1983 to fuse and disseminate tactical military intelligence directly to U.S. Country Teams in the region and to provide direct support to the Commander in Chief, U.S. Southern Command.

*This version of Inquiry Report No. PO 96-015 has been revised to omit classified information.

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In Washington, the CAJIT initiated a high priority effort to identify the individuals involved in the murders using the intelligence collection and analytical resources of the DoD. Those resources were not well suited to such an effort, and it produced no results. The project was dropped after the initial arrests in the case were made in August 1985.

(U) The * also supported the CIA Chief of Station in San Salvador shortly after the massacre. On June 25, the CIA asked that * review all * communications on file for names, addresses, or other information that would provide leads. The * responded to that request on June 28. On June 28, the CIA made a second request for information from the *, asking it to run a trace on more than 60 known or suspected * personalities and pseudonyms and provide any information on them found in the data bases; * responded to the second request on July 5.

(U) The Resident Agent of the Naval Investigative Service (NIS, now designated the Naval Criminal Investigative Service) in San Diego was apparently the first to alert concerned agencies of the U.S. Government of a break in the Zona Rosa case. On August 7, 1985, the U.S. Border Patrol invited the Resident Agent and a Federal Bureau of Investigation (FBI) Agent to participate in an interview of Juan Garcia, who had been apprehended illegally entering the U.S. and volunteered that he had information about the murders of the U.S. Marines in San Salvador. Immediately after the interview, the Resident Agent issued an electrical intelligence information report that identified the upholstery shop used as a cover by Cell Ulises and named William Celio Rivas as a participant in the massacre.

(U) **Support to an FBI Investigation.** The NIS became involved in the Zona Rosa criminal investigation again in November 1987, when it appeared that the three individuals being prosecuted for the murders of the Marines might be released under a newly enacted Salvadoran amnesty law. Representatives of the Department of Justice (DoJ) and Department of State (DoS) requested that the NIS assist in an FBI investigation to support the possible prosecution of those responsible for the Zona Rosa massacre in the U.S. The NIS opened an investigation on November 23, 1987. In December 1987, the NIS provided the FBI with the complete personnel and medical records of the four murdered Marines. The NIS also assisted the FBI in identifying and locating current and former DoD personnel who might be possible witnesses. With NIS assistance, the FBI located and interviewed eight DoD personnel as potential witnesses. After mid-April 1988, the NIS played no active role in the investigation other than liaison, but did not formally close its investigation until May 1990.

(U) **Contact with the GOES.** We found only two instances in which DoD personnel had contact with the GOES in connection with the Zona Rosa

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massacre. Neither contact was apparently related to the Salvadoran efforts to identify, prosecute and incarcerate the individuals involved in the massacre.

(U) When a Special Presidential Emissary met with Salvadoran President Duarte on July 2, 1985, the Emissary was accompanied by the Commander in Chief, U.S. Southern Command, and the U.S. Embassy Charge. The subject of the meeting was the response to the Zona Rosa massacre and U.S. support to the Salvadoran effort to defeat the FMLN guerrilla movement. The Commander in Chief told us he had been asked to attend the meeting either earlier that day or just the day before; he said he did not have a clear recollection of the specific meeting, as it was one of over fifty meetings he had with President Duarte. However, according to the Special Emissary, the Emissary did all the talking, while the Commander in Chief said nothing.

(U) Over the Labor Day weekend in 1985, the Chairman, Joint Chiefs of Staff, visited three Central American countries, including El Salvador. In El Salvador, he delivered a letter from the U.S. President to Salvadoran President Duarte in reply to an August 27 letter from Duarte. In that letter, Duarte reported the results of the Zona Rosa massacre investigation and thanked the President for the support that the U.S. had given to the investigation. The Chairman may have discussed the response to the massacre with President Duarte as he delivered the letter. However, there is no mention of Zona Rosa in his trip report to the Secretary of Defense. The Chairman reported only that Duarte had responded to his chiding about the failure to move governmental institutions in behind his military successes by accepting responsibility and outlining his plans for doing so.

DoD Information on Those Connected With the Zona Rosa Massacre (U)

(U) **Massacre Participants.** Those connected with the Zona Rosa massacre in DoD files fall into three categories: direct participants in the massacre, indirect participants, and individuals associated in some way with the massacre. The direct participants in the massacre were the members of the strike team and the cover team. The strike team reportedly consisted of four individuals:

(U) **Ismael Dimas Aguilar, alias "Ulises."** Identified in August 1985 by Garcia, Rivas, Abraham Dimas and Morales as the leader of the CMC's Cell Ulises and probably the on-scene commander of the Zona Rosa massacre. He escaped capture in August 1985; according to Andrade in 1989, the Mexican Ambassador gave him asylum and drove him out of San Salvador. He was killed in a Salvadoran Air Force air strike in November 1985, according to three different sources in December 1985, January 1986 and July 1988.

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(U) "Julio," true name unknown. Identified in August 1985 by Garcia and Rivas as a member of Cell Ulises, probably second in command of the cell; wounded by Rivas in the Zona Rosa attack, and he died a few hours later. Carried an identification card in the name of Jose Roberto Salazar Mendoza and identified in June 1985 by a captured member of another FMLN faction as Jose Salazar, but Salvadoran authorities determined in July 1985 that the identification card was false. No further information after July 1985.

(U) Jose Antonio Bolanos Rivas, alias "Macias." Identified in August 1985 by Garcia, Rivas and Abraham Dimas as a member of Cell Ulises and a participant in the massacre. He was a cousin of Rivas. He disappeared after the attack and was never mentioned again in any reporting held by the DoD.

(U) William Celio Rivas Bolanos. Identified by Garcia as a member of Cell Ulises; he was arrested in August 1985. He admitted being a participant in the massacre; a polygraph test indicated he was truthful about his participation, but not about those who were involved in it with him. He was identified in July 1989 by Andrade as a PRTC member he knew. A warrant for his arrest was issued by the U.S. District Court in Washington in November 1988. He was convicted and sentenced to 25 years by a Salvadoran court in April 1991, but was released in September 1995 under a new juvenile law that limited maximum sentences for juveniles to 7 years--Rivas was 17 years old at the time of the massacre.

(U) The cover team was probably made up of four individuals, some of whom may have been known by more than one pseudonym, resulting in additional names. The team reportedly included:

(U) "Walter," true name unknown. Identified in August 1985 by Garcia, Rivas and Morales as the leader of the CMC's Cell Walter, probably in command of the cover team that protected the strike team and probably deputy on-scene commander. He was not apprehended; however, he died in the same November 1985 Salvadoran air strikes that killed Ismael Dimas, according to two different sources in January 1986 and July 1988. Identified briefly in August 1985 as Jose Antonio Lemus Figueroa, until it was learned that Lemus Figueroa--who also used the pseudonym, "Walter"--was in prison at the time of the Zona Rosa massacre.

(U) "Pepe," true name unknown. Identified in August 1985 by Garcia and Rivas as a member of Cell Walter and a participant in the massacre. He was never located or mentioned again in any reporting available to DoD.

(U) Juan Antonio Morales Lucero, alias "Ruperto." Not identified by Rivas or Garcia, but each said there was a member of the security team he did not know in addition to the driver. He was first connected with the Zona Rosa massacre in DoD files when he was arrested in July 1988 and confessed to

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participating, although he later recanted his confession. He was tried in a Salvadoran court and acquitted in August 1993.

(U) "Gil," true name unknown. Identified in 1985 as a participant by Rivas, but only in the translation of an undated Salvadoran National Guard interrogation report. He is not mentioned in other Rivas statements or in any other reporting available to DoD.

(U) "Joel," true name unknown. Identified in 1988 as a participant by Morales, but he is not mentioned in any other reporting. However, "Joel" is one of the pseudonyms that Andrade was using about the time of his capture in May 1989.

(U) "Manuel," true name unknown. Identified in 1988 as a participant by Morales, but he is not mentioned in any other reporting.

(U) The indirect participants in the Zona Rosa massacre operation included those in the planning and direction group, the surveillance and transportation group, and the support group. Three individuals have been associated with the planning and direction group:

(U) Pedro Antonio Andrade Martinez, alias "Mario Gonzalez" or "Fernando Gallardo" or "Rodrigo Paredes" or "Joel." Commander of CMC as well as Commander, Metropolitan Front and Regional Secretary, Fifth PRTC Region. The CMC communique taking responsibility for the Zona Rosa massacre is signed with one of his pseudonyms. He was identified in early August 1985 by two captured urban leaders of another FMLN faction as the planner and director of the massacre, who did not coordinate the operation with the FMLN General Command. He was also identified in August 1985 as the leader of the massacre operation by Rivas and Garcia. In November 1985, he was identified as being behind the operation by a PRTC Metropolitan Front member serving as a GOES intelligence source. In January 1986, he was identified as the individual who collected weapons from an arms cache in San Salvador with Ismael Dimas three days before the massacre. He was arrested on May 28, 1989; however, when he was arraigned in June 1989, a Salvadoran court ruled that, given his testimony, there was little basis for his prosecution in the Zona Rosa case. In March 1990, the U.S. Embassy in San Salvador requested that he be given a public interest parole into the U.S.; the parole was approved by the Immigration and Naturalization Service in April 1990, and he arrived in the U.S. in June 1990. The CIA Zona Rosa inquiry team found that the CIA provided his family a total of \$20,000 between September 1989 and June 1990 in return for intelligence information he provided on the PRTC and the FMLN. In March 1993, the United Nations Truth Commission for El Salvador concluded that there was sufficient evidence that he took part in planning the massacre.

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(U) Jose Manuel Melgar, alias "Rogelio Martinez." The Chief of the General Staff of the PRTC's military force and probably head of the Central Region Command in 1985--Andrade's immediate superior. In June 1989, Andrade alleged that Melgar was the sole planner and director of the Zona Rosa massacre. No other reporting indicates that Melgar had a role in the operation, and the United Nations Truth Commission in 1993 did not associate him with the massacre. He remained active in the PRTC after the war ended.

(U) Francisco Alberto Jovel Urquilla, alias "Roberto Roca" or "Pedro" or "Pericon." The Secretary General of the PRTC and Commander in Chief of its military arm in 1985. No information associated him with the Zona Rosa massacre until he told a U.S. Embassy officer in San Salvador in March 1993 that he had not known about or authorized the Zona Rosa massacre, although he and the entire FMLN high command had approved actions against U.S. military personnel. He said that the United Nations Truth Commission for El Salvador therefore blamed the FMLN, but did not specifically sanction him or other PRTC leaders for the massacre.

(U) The members of the surveillance and transportation group are unknown. While others listed here as direct or indirect participants may have conducted surveillance or stolen the vehicle used in the operation, one or more additional members of the CMC also performed these functions.

(U) The support group reportedly included five individuals:

(U) Jose Abrahan Dimas Aguilar. Identified in August 1985 by Rivas as the brother of Ismael Dimas, who allowed his service station to be used as a meeting place for Cell Ulises. He was arrested in August 1985. Although not a PRTC member, he was aware of planning for the attack. He was convicted as an accomplice and sentenced to 4 years in April 1991. Although he had already been in prison for almost 6 years, he was not released until March 1992.

(U) Juan Miguel Garcia Melendez, alias "Jose" or "Miguel" Melendez Garcia. Apprehended on August 4, 1985 by the U.S. Border Patrol near San Diego, he provided the initial information about the individuals involved in the Zona Rosa massacre in hopes of receiving the reward announced by the U.S. Government on July 19. He was returned to El Salvador and was arrested upon arrival. He acknowledged his membership in Cell Ulises and initially stated that he had participated in the massacre; however, when he was unable to reconstruct the operation he described, he admitted that he only knew about, rather than participated in, the massacre. He was convicted and sentenced to 11 years in April 1991. The sentence was reduced to seven and one-half years on appeal, and he was released in March 1993.

(U) Pedro Vladimir Rodriguez Guardado, alias "Mauricio." Teenage PRTC member who, with his father, was in charge of a CMC safe

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house where arms were stored. He was arrested when the safe house was identified by a captured PRTC member in January 1986. He said that 5 days before the Zona Rosa massacre, Ismael Dimas told him to prepare 7 weapons and 2 hand grenades for pickup; 2 days later, Ismael and Andrade came to collect them. After the initial report, he is not mentioned again in DoD holdings.

(U) **Pedro Rodriguez Guardado, alias "Raul."** Operated a CMC safe house where arms were stored with the help of his son. He was not present when the safe house was raided in January 1986, and he escaped arrest. DoD has no information on him beyond the report of the safe house raid.

(U) **Frederico Alfonso Urruchua Durand, alias "Fernando."** The Mexican Ambassador to El Salvador in 1985. Andrade alleged in July 1989 that Urruchua gave Ismael Dimas asylum in the Mexican Embassy after the Zona Rosa massacre and drove him out of San Salvador--probably just after Rivas and Abraham Dimas were arrested in August 1985. Urruchua was denied a U.S. visa in 1989 as result of his role in the aftermath of the massacre.

(U) **Summary of Participants.** As depicted in Figure 1 on the next page, there were reportedly at least 15, and as many as 19 or more, participants in the Zona Rosa massacre. The direct participants included eight individuals, a four-member strike team and what was probably a four-member cover team; however, six names were associated with the cover team. The indirect participants included at least seven, and as many as nine or more, individuals in the planning and direction group, the surveillance and transportation group, and the support group. There was probably only one planner and director of the massacre, although two other names have been mentioned. The surveillance and transportation group included one or more unknown individuals. The support group was made up of five individuals. Of the 15 to 19 or more participants, 3 were reportedly killed--1 in the massacre and 2 in Salvadoran air strikes--6 were apprehended, and the remaining 6 to 10 or more remained at large. Of the six apprehended, three were tried and convicted, one was tried and acquitted, one was never indicted, and the fate of one is unknown.

(U) **Others Mentioned.** Twelve other individuals are mentioned in DoD files in association with the Zona Rosa massacre, but there is no information to indicate that they were either direct or indirect participants in the massacre operation. They are:

(U) **"Charly," true name unknown.** Identified in August 1985 by Garcia as a member of Cell Walter and the driver of the pickup used in the attack. However, he was not identified by Rivas or Morales; both said they did not know their driver. Garcia may have picked up the name from Rivas, who knew a "Charly" in the PRTC, but Rivas believed that "Charly" was out of the country in June 1985.

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	1985	1990	1995
Strike Team			
1 Ismael Dimas Aguilar, "Ulises"	Killed Nov 85		
2 "Julio"	Killed Jun 85		
3 Jose Antonio Bolanos Rivas, "Macias"			Never Apprehended
4 William Celio Rivas Bolanos	Apprehended Aug 85	Sentenced Apr 91	Released Sep 95
Cover Team			
5 "Walter"	Killed Nov 85		
6 "Pepe"			Never Apprehended
7 Juan Antonio Morales Lucero, "Ruperto"	Apprehended Jul 88	Acquitted Aug 93	
8 "Gil" *			Never Apprehended
9 "Joel" *			Never Apprehended
10 "Manuel" *			Never Apprehended
Planning/Direction			
11 Pedro Antonio Andrade Martinez, "Mario Gonzalez"	Apprehended May 89	Paroled to U.S. Jun 90	
12 Jose Manuel Melgar, **			Never Apprehended
13 Francisco Alberto Jovel Urquilla, "Roberto Roca" ***			Never Apprehended
Surveillance/Transport			
14 One or more unknown			Never Apprehended
Support			
15 Jose Abraham Dimas Aguilar	Apprehended Aug 85	Sentenced Apr 91	Released Mar 92
16 Juan Miguel Garcia Melendez, "Jose"	Apprehended Aug 85	Sentenced Apr 91	Released Mar 93
17 Pedro Vladimir Rodriguez Guardado, "Mauricio"	Apprehended Jan 86		
18 Pedro Rodriguez Guardado, "Raul"			Never Apprehended
19 Frederico Alfonso Urruchua Durand, "Fernando"		Denied U.S. Visa 1989	

* One member of Cover Team is unknown, could be any one of these.

*** Little or no indication either was planner/director.

Figure 1. Zona Rosa Massacre Participant Summary (U)

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(U) "Chepe," true name unknown. Identified in August 1985 by Garcia as a member of Cell Walter. However, he was in Cuba for training in June 1985.

(U) Angel Serrano Bolanos, alias "Ojo de Gallo" or "Elmer." Identified in August 1985 by Garcia as a member of Cell Walter under the name, "Ojo de Gallo," who was in Cuba for training in June 1985. Rivas identified him as one of his cousins and a PRTC member, but not a member of Cell Walter. Rivas thought Serrano was out of the country in June 1985.

(U) "Tiamina," true name unknown. Identified in August 1985 as a member of Cell Ulises by Abraham Dimas and Rivas. However, Rivas said that he had deserted the PRTC and left the country prior to May or June 1985.

(U) David Wilder Villalta Ruano. Arrested at the upholstery shop with Rivas in August 1985. However, Salvadoran authorities determined that he had been working there for only a few days and had no connection with the PRTC. By the end of August 1985, the Salvadorans planned to use him as a witness for the prosecution.

(U) Alejandro Magana Franco, alias "Mario." PRTC member arrested in June 1986 because of his pseudonym, "Mario." However, Salvadoran authorities determined that he was not the "Mario Gonzalez" involved in Zona Rosa massacre.

(U) Romeo Gilberto Osorio, alias "Gerardo Zelaya." U.S. citizen by birth who returned to the homeland of his parents as an adult and joined the PRTC. In May 1995, a correspondent on *60 Minutes* alleged that Osorio had helped to plan the Zona Rosa massacre. A study of the PRTC produced by the Defense Intelligence Agency's Central America Joint Task Force in November 1985 identified "Gerardo Zelaya" as an unidentified U.S. citizen, who was the leader of a PRTC guerrilla unit operating in San Vicente Department east of San Salvador. In 1988, "Zelaya" was identified by a captured PRTC leader as a member of the propaganda section in the PRTC Central Command Post, located in Morazan Department. "Zelaya's" true name is not identified in DoD files, and DoD holds no reporting that indicates he had any connection with the Zona Rosa massacre.

(U) "Leonel Gomez," true name unknown. PRTC leader killed by the Salvadoran military in January 1987. He was identified at that time as the leader responsible for the Zona Rosa massacre *

The DoD holds no other information that indicates he had any connection with the Zona Rosa massacre.

(U) Jose Anibal Masferrer, alias "Frederico Arzueta." Reportedly honored at a June 1985 party in a PRTC base camp as the leader of the Zona

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Rosa operation. However, Salvadoran authorities later determined he just happened to be the first PRTC Metropolitan Front leader to arrive at that camp after the massacre. Captured in January 1986, he identified the weapons cache reported to have supplied weapons for the massacre. The DoD has no other information on him.

(U) **Carlos Stanley Revelo Salazar.** Salvadoran citizen arrested by the Guatemalans in July 1985 in connection with the Zona Rosa massacre at the request of Salvadoran authorities. However, the Salvadorans determined that he was not associated with the massacre.

(U) **Mario Hector Revelo Salazar.** Salvadoran citizen arrested by the Guatemalans in July 1985 in connection with the Zona Rosa massacre at the request of Salvadoran authorities. However, the Salvadorans determined that he was not associated with the massacre.

(U) **Mela del Carmen Dominguez Barhona, alias "Ana."** Not a PRTC member, but identified in January 1989 by a captured member of her guerrilla faction as a participant in the Zona Rosa massacre. The DoD has no other information that associates her with the PRTC or the massacre.

**PART III - The DoD Relationship With
Any of Those Involved (U)**

Relationship With Any of Those Involved (U)

DoD Human Intelligence Collection in El Salvador (U)

(U) Part III addresses Objectives 3 and 4. We determined that the DoD had no relationship with anyone known or suspected to have been involved in the Zona Rosa massacre, either before or after the murders. *

Information DoD Received From Those Involved (U)

(U) DoD personnel received no information directly from any of the individuals connected with the Zona Rosa massacre, with the exception of the Naval Investigative Service Resident Agent's participation in the interview of Juan Garcia in August 1985. The Department did, however, receive information concerning the massacre from William Rivas and Juan Morales, as well as Garcia, through intermediaries. That information came from CIA reporting and Salvadoran interrogation reports provided to the CAJIT or the U.S. Army's 470th Military Intelligence Brigade in Panama. In addition, the DoD received some information related to the massacre from Pedro Andrade through DoS cables.

(U) The DoD also received information from Andrade that was not related to the Zona Rosa massacre in the 470th Military Intelligence Brigade and * CIA intelligence information reports issued from June 1989 through June 1990. Those reports included information on the PRTC's plans for an offensive in 1989, its metropolitan organization, and its internal and external logistics structure. They also included information on the FMLN command organization, its communications procedures, its infrastructure in Nicaragua and Mexico, and the support it received from Cuba and the Sandinistas. Our review of the CAJIT finished intelligence production list indicates that the CAJIT

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Relationship With Any of Those Involved (U)

published at least nine products from August 1989 through mid-1991 that included information provided by Andrade.

Entry Into the U.S. (U)

The DoD Role in Decisions on Entry Into the U.S. (U)

(U) Part IV addresses Objective 6. No DoD organization or official played any role in determining whether any of the known or suspected perpetrators or intellectual authors of the Zona Rosa massacre, or members of their families, would be authorized entry into the U.S. There is no indication that, prior to the fall of 1995, any DoD personnel were aware that Pedro Andrade had been paroled into the U.S. or that his family had received CIA funds in return for the intelligence information he provided. We base that conclusion on interviews with the CIA, DoI and DoS personnel who participated in decisions related to the entry of any of those involved in the massacre, as well as with the Defense Attache and Commander of the U.S. Military Group in San Salvador in 1988-1990.

Operation Red Zone (U)

(U) The U.S. Marine Corps did, however, participate in U.S. Government preparations to bring two of the participants in the massacre, Willian Rivas and Juan Garcia, to the U.S. in September 1989--Rivas for prosecution in a U.S. court and Garcia as a witness. At that point, the Salvadoran Supreme Court was about to issue a final decision on the applicability of the 1987 amnesty law to Rivas, Juan Garcia, and Abraham Dimas. Salvadoran President Cristiani, who had succeeded President Duarte, had told the U.S. Ambassador that if the Salvadoran Supreme Court ruled that the amnesty law applied to the three, his government might be willing to expel Rivas and Garcia and turn them over to U.S. authorities.

(U) In mid-September 1989, the Commandant of the Marine Corps attended a meeting at FBI Headquarters, at the request of the Senior Agent in Charge of the Washington Metropolitan Field Office. The subject of the meeting was a plan that the FBI had nicknamed, "Operation Red Zone." The Commandant was asked if the Marine Corps could provide a C-130 aircraft to transport Rivas, Garcia and several FBI agents from San Salvador or a third country to Andrews Air Force Base. He was also asked if the two Zona Rosa participants could be confined at Quantico Marine Corps Base during the prosecution effort. The Commandant agreed to support both requests, and the FBI subsequently asked the Attorney General to forward a letter to the Secretary of Defense formally requesting Marine Corps assistance.

(U) The U.S. Ambassador had reported that the Salvadoran Supreme Court might rule on the amnesty issue as soon as September 20, 1989. On that day, the Second Marine Air Wing at Cherry Point Marine Corps Air Station, North Carolina put a C-130 on "strip alert" in response to the Commandant's direction. The aircraft and an aircrew remained on alert, ready for immediate takeoff upon notification, for about a week. The alert was cancelled when the Salvadoran Supreme Court ruled that the amnesty law did not apply to those charged in the Zona Rosa massacre.

**Part V - Other U.S. and Salvadoran
Actions in Response to the Massacre (U)**

Other Actions in Response to the Massacre (U)

(U) Part V addresses Objective 8. First, we will discuss the actions taken by DoD as part of the "mainstream," interagency response to the Zona Rosa massacre. Next, we will examine the actions taken by DoD in conjunction with a unilateral U.S. military reprisal option. Finally, we will review the actions taken by the Salvadoran military in retaliation for the massacre.

The "Mainstream" DoD Response (U)

(U) **Participation in the Interagency Response.** On the day after the Zona Rosa massacre, June 20, 1985, the President announced that he had directed that the Secretaries of State and Defense, with the help of the intelligence agencies, provide the GOES whatever assistance was necessary to find and punish the perpetrators of the massacre. He also directed that steps be taken to:

- o Immediately provide whatever intelligence assistance needed by the GOES;

- o Expedite the delivery of security assistance items already on order by the GOES; and

- o Furnish the Salvadoran military with additional military assets which would help prosecute their campaign against the communist guerrillas.

(U) On June 21, the Chairman, Joint Chiefs of Staff, sent a memorandum to the Secretary of Defense outlining the measures that the DoD might take to implement the President's June 20 statement. He made the following points:

- o DoD intelligence assets were specifically tasked to focus collection on the areas in which the headquarters element of the PRTC and another faction that might have been involved were normally located.

- o The combat capability of the Salvadoran military had improved substantially as a result of equipment deliveries since March 1985, and the delivery of additional equipment had been accelerated. However, the Salvadorans urgently needed equipment beyond that already programmed to prosecute a stepped-up antiguerrilla campaign. The Commander in Chief, U.S. Southern Command, the U.S. Embassy in San Salvador, and the Salvadoran Minister of Defense had identified the additional military assets needed to carry out that campaign. The \$70 million program included a modest force expansion, an improved night operational capability, police and security force improvements, increased tactical mobility, and humanitarian activities.

Other Actions in Response to the Massacre (U)

o The most significant problem for the Salvadorans was the inability of their police forces to combat urban terrorism, and the Joint Chiefs of Staff recommended that the U.S. offer to train Salvadoran police forces in counterterrorism operations.

(U) On June 21 and June 26, members of the Office of the Chairman, Joint Chiefs of Staff, and the Office of the Assistant Secretary of Defense for International Security Affairs attended meetings of the Restricted Interagency Group at which the actions described above and those proposed by other agencies were discussed. As a result of those meetings, the DoS submitted, on June 29, a coordinated interagency status report and action plan to combat terrorism in Central America that responded to the President's June 20 statement. According to the status report and action plan, the Defense-related actions taken or planned for El Salvador were:

o The Defense Intelligence Agency had sent a team to El Salvador to examine special problems related to the protection of U.S. military personnel in country. Their report was expected shortly. (However, the report was not located during our data search.)

o The DoD had expedited the delivery of essential security assistance items requested by the Salvadorans. Major items scheduled for delivery in July and August 1985 included 2 C-47 aircraft, 6 UH-1H helicopters, a 65-foot patrol boat, 305 machine guns, 58 mortars, over 2,000 metric tons of ammunition, and 10,000 mines.

o The DoD had recommended consideration of a proposal to ask Congress for a \$180.5 million military assistance supplemental appropriation for Fiscal Year 1985. The supplemental appropriation would include the \$70 million program for El Salvador suggested by the Chairman, Joint Chiefs of Staff, on June 21.

(U) On July 9, 1985, the President signed National Security Decision Directive 176, Combatting Terrorism in Central America, which incorporated the major steps contained in the June 29 interagency action plan. The directive stated that actions must be designed to enhance the capabilities of the Salvadorans to deal with the threat of urban terrorism, further their campaign against the guerrillas in the field, revitalize their economy, and protect American citizens in their country. The Secretary of Defense was directed to expedite the procurement and delivery of items already ordered under the military assistance program and to make recommendations as to whether it was necessary to use Presidential emergency authorities to furnish the Salvadorans with additional military materiel. The Secretary of State was directed to submit proposals for supplemental assistance required to safeguard U.S. interests in Central America

Other Actions in Response to the Massacre (U)

and to assist the countries of the area in meeting the threat of terrorism, subversion, and destabilization.

(U) DoD personnel also contributed to efforts of the DoS and the CIA in response to the massacre. At the direction of the Secretary of State, the DoS Inspector General conducted a Special Inquiry into the facts and circumstances surrounding the murders of the Marines. One of the three members of the Special Inquiry team was an officer from the Office of the Inspector General of the Marine Corps. The Special Inquiry report was issued on August 5, 1985. The inquiry team determined that the probable cause of the massacre was that Embassy employees, including Marine embassy security guards, had established a regular pattern of going to Zona Rosa's open-air restaurants during off-duty hours. While the Embassy's security policy did not prohibit them from doing so, the Military Group Commander and Defense Attache did not permit the military personnel under their control to go to the Zona Rosa during off-duty hours, due to the security threat in the area. The inquiry team found that, as was common practice in the Foreign Service, the Embassy management had equated members of the Marine Security Guard Detachment to the civilian staff. The team concluded that equating the Marines to the civilian staff was an error in judgment due to the increased threat to the Marines as military personnel in San Salvador; all military personnel attached to the Embassy should have been considered equally threatened and subject to the same security guidelines. Taking into account all the facts and circumstances, however, the inquiry team concluded that there was no basis to convene a Board of Inquiry "to fix responsibility on any official in San Salvador, either civilian or military under the operational control of the Secretary of State, for negligence in connection with this incident."

(U) National Security Decision Directive 176 directed the Director of Central Intelligence to undertake an expanded program of improved intelligence support to El Salvador. Late in 1985, the CIA asked the DoD to assist in an effort to enhance intelligence collection, analysis and dissemination for the Salvadoran military. In March 1986, the Deputy Under Secretary of Defense for Policy approved the CIA request, and the DoD program began. With some variations, eleven U.S. military personnel, * were usually in El Salvador on ninety-day temporary duty assignments as part of the program. They served as intelligence coordinators in several Salvadoran military Regional Intelligence Centers and as order of battle analysts in the National Directorate of Intelligence, working side-by-side with Salvadoran counterparts. The program continued through the end of 1989.

(U) Casualty Assistance Actions. Within minutes after the massacre occurred, DoD military personnel arrived at the scene. The Commander of the U.S. Military Group, the Defense Attache, and the Naval Attache, along with other U.S. Embassy officials, assisted in loading the victims into vehicles and

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Other Actions in Response to the Massacre (U)

transporting them to a hospital. Three of the four Marines were dead on arrival at the hospital, and the fourth died shortly thereafter. The Naval Attache accompanied the bodies of the Marines--first to Panama, where the remains were embalmed, dressed and placed in suitable caskets at the Gorgas U.S. Army Hospital Mortuary--and then to Andrews Air Force Base, where they were met by the President. The Marine Corps brought the families of the four Marines to the arrival ceremony.

(U) In early July 1985, Representative Thomas A. Luken wrote to the Secretary of the Navy, apparently on behalf of the family of one of the dead Marines, inquiring about the investigation of the Zona Rosa massacre. The Deputy Director of Naval Intelligence for Security responded to Representative Luken on behalf of the Secretary on July 15, 1985. He indicated that the Navy had not conducted an inquiry because the Marines were assigned to the DoS. Since the DoS Inspector General had investigated the deaths of the Marines, the Deputy Director informed Representative Luken that he would ask the DoS Inspector General to respond to the Representative's inquiry. The DoS Zona Rosa inquiry team was unable to locate a copy of the Deputy Director's letter in the DoS Inspector General files. Neither we nor the DoS inquiry team found any record of the DoS Inspector General's response to Representative Luken.

(U) On September 10, 1985, then Representative Richard Shelby forwarded to the Marine Corps a request from the mother of one of the dead Marines for information about her son's death. She asked for a copy of the Ambassador's report to the Secretary of State on the massacre, her son's health record, and the autopsy report on her son. She also asked several questions concerning the circumstances surrounding the massacre. On September 30, 1985, a staff officer in Headquarters, Marine Corps, wrote to Representative Shelby, informing him that the Marine's mother would be sent her son's health record, but not an autopsy report, because no autopsy had been performed. The staff officer also said that because most of the mother's questions were about her son's assignment to the U.S. Embassy in San Salvador, the Marine Corps had forwarded the inquiry to the DoS Office of Security for a direct reply. Neither we nor the DoS Zona Rosa inquiry team found any record of a response to Representative Shelby from the DoS Office of Security.

U.S. Military Reprisal Actions (U)

(U) Operation NINE IRON. Operation NINE IRON was a fast-track contingency planning action intended to provide the National Command Authorities with a military retaliation option in response to the Zona Rosa

Other Actions in Response to the Massacre (U)

massacre. The action had a total lifespan of 14 days and, for the last 4 of those days, was called Operation NINE IRON. Because of NINE IRON's brief existence, and the intensity of concurrent actions in response to the hijacking of Trans World Airlines Flight 847, no one we interviewed had an accurate memory of the entire evolution, if they recalled it at all. Only five individuals were able to give us more than general information. However, what emerges from our interviews and the documents we located is that the DoD planned for and rehearsed the capability to conduct air strikes on guerrilla base camps in El Salvador. Two armed and ready-to-fire * aircraft were over El Salvador on two consecutive nights with precise targets to be engaged, if directed, beginning 11 days after the Zona Rosa massacre. The aircraft were never directed to engage a target, no weapons were fired in El Salvador, and Operation NINE IRON was terminated after two rehearsal missions.

(U) Although we were unable to determine whether the initiative came from inside or outside the Department, the DoD began to consider a military retaliation option as one component of the U.S. Government response to the Zona Rosa massacre immediately after it occurred. As early as June 20, 1985, the Joint Chiefs of Staff (JCS) Director for Operations (J3) asked a senior officer at * to conceive a retaliation plan that limited, or did not involve, U.S. ground forces. The next day, the senior officer passed the J3 a concept that involved the use of * gunships to strike known guerrilla base camps in El Salvador when leadership elements were present. That concept was included among seven options apparently considered by the JCS.

(U) Primary responsibility for the military retaliation planning action was given to the *. The JCS organization responsible for special operations in 1985. An undated working paper indicates that * based its planning for a retaliation operation on the following four assumptions:

- o High impact, high visibility targets could be identified;
- o National Command Authorities approval for the use of U.S. armed forces would be given;
- o The Salvadoran government would approve the use of U.S. armed forces in a retaliation operation; and
- o Overflight permission might be required from Honduras or Guatemala.

(U) Given those assumptions, * developed seven possible courses of action for a retaliation operation. They were to strike identified targets using:

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Other Actions in Response to the Massacre (U)

- o Naval gunfire from the Pacific Ocean;
- o Navy strike aircraft from either the Pacific or Atlantic Oceans;
- o Air Force * gunships launched from the U.S.;
- o Air Force * gunships launched from Panama;
- o Air Force tactical strike aircraft from the U.S.;
- o Army helicopter gunships; or
- o Army Special Operations Forces or Rangers.

(U) After analyzing the relative advantages and disadvantages of the seven courses of action, * decided that the best option was to employ * gunships from the *. , launching from their homebase at *. The * is armed with 20 millimeter machine guns, a 40 millimeter cannon, and a 105 millimeter howitzer. The unit's aircrews had considerable experience flying over El Salvador. Since 1983, they had flown nightly surveillance missions over the country, using the onboard low-light-level television and infrared sensor, while deployed to Howard Air Force Base, Panama.

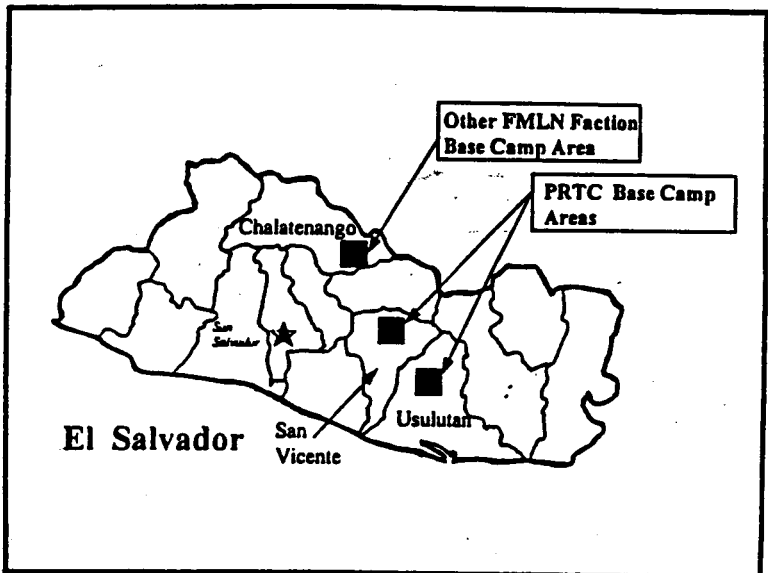
(U) While * was selecting a course of action for the retaliation operation, the Defense Intelligence Agency was tasked to identify targets. An undated working paper indicates that the CAJIT identified three guerrilla base camp areas, two areas associated with the PRTC and one area associated with another faction suspected to be preparing for attacks on Americans in San Salvador at the time of the Zona Rosa massacre (see Figure 2 on the next page). Over 100 confirmed or suspected camps were identified in the three areas, of which 13 were designated as key locations. The CAJIT pointed out that actual military action against guerrilla combatants depended upon the ability to locate them in a particular camp at a given time. The most promising method of doing so was the direct and focused application of * location and identification techniques.

(U)*

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Other Actions in Response to the Massacre (U)

(U)*



Unclassified

Figure 2. Operation NINE IRON Target Areas (U)

(U) Even if guerrilla combatants could be located in a particular camp in a timely manner, there was also concern about "collateral damage" from the beginning of the retaliation planning action. The CAJIT working paper warned that attacks against particular camps carried with them the probability that a number of non-combatants might be among the resulting casualties, because camp support--such as food, labor, and other services--was provided by sympathizers or followers of the combat units. A draft memorandum

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Other Actions in Response to the Massacre (U)

forwarding the list of advantages and disadvantages of a U.S. air strike in El Salvador requested by the Chairman, Joint Chiefs of Staff, concluded, "We must be absolutely certain that the targets are occupied by PRTC insurgents, without families, to insure the down side risks will not be overwhelming." Four of the officers involved in Operation NINE IRON planning told us that collateral damage to civilians was the major planning concern.

(U) On June 24 or 25, a * staff officer with * experience began detailed planning on the option of a nighttime * strike. The specific mission was "to conduct clandestine surgical air strikes against designated PRTC targets." On June 26, he requested that the *

Commander come to Washington to assist him. The * Commander arrived the next day and left 24 hours later. Together, they developed a concept of operations in which two * would depart *

, align their sensors and test their guns on the ranges at *, air refuel prior to reaching Cuban radar coverage, overfly Honduras and enter El Salvador. The two aircraft would spend about an hour in the target area striking targets as directed, then retrace their flight path back to *

, with another air refueling en route. The mission would last about 12 hours. When over El Salvador, the aircraft would be controlled by the U.S. Southern Command. Targets for each mission would normally be designated prior to takeoff; after locating the target, the aircrews would contact U.S. Southern Command, describe what could be seen, and wait for further instructions. The U.S. Southern Command might also give the aircrews new targets while they were over El Salvador.

(U) The concept of operations for the * retaliation strike option was briefed at a special meeting of the Secretary of Defense with the Joint Chiefs of Staff on June 29. The briefing slides indicate that the concept, command and control relationships, and intelligence support arrangements were discussed in detail, then two U.S. Southern Command alternatives were noted--a combined Salvadoran AC-47 and U.S. * night air strike, and U.S. intelligence support for a daylight Salvadoran air-ground strike. According to the briefer, the Secretary of Defense expressed concern about the need for minimum collateral damage and the fact that striking the right target at the right time could not be guaranteed. He asked the briefer what the chances were that the mission as proposed would succeed. When the briefer responded that the chances were very low, the Secretary said that was the answer he had expected. Despite that exchange, preparations to implement the retaliation plan continued.

(U) During or just after the briefing to the Secretary, the JCS issued a warning order directing the Commander in Chief, U.S. Southern Command to prepare to conduct clandestine military operations against validated PRTC targets in El Salvador when ordered; Military Airlift Command was directed to provide the * strike package required and Strategic Air Command, the air refueling

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Other Actions in Response to the Massacre (U)

support needed. Late on June 29, JCS directed the commands involved to begin * rehearsal missions from * to El Salvador on the night of June 30 and to continue flying them nightly until further notice.

(U) Prior to the rehearsals, planners at * decided to employ three * aircraft for the missions, using one as an airborne spare to back up the two primary mission aircraft until the first air refueling. They also decided that while in the target area, the NINE IRON aircraft would operate like the * that had been flying surveillance missions from Panama since 1983. The first rehearsal mission--led by the * Commander--was successful, with the two aircraft reaching the assigned target and then being diverted to a second by the U.S. Southern Command. The second rehearsal mission on the night of July 1 was also successful; on that mission, the two aircraft entered El Salvador, then split to two different assigned targets. On July 2, the JCS/J3 cancelled the rehearsal mission scheduled for that night, but directed that the commands involved maintain the ability to conduct a rehearsal mission on the night of July 3.

(U) A hand-written JCS log indicates that the rehearsal on July 2 was cancelled because a Special Presidential Emissary, the former Assistant Secretary of State for Inter-American Affairs, was scheduled to visit Salvadoran President Duarte that evening. The Emissary was accompanied to the meeting by the Commander in Chief, U.S. Southern Command and the U.S. Embassy Charge. According to the Terms of Reference found in DoS files, the Emissary told President Duarte that, if he agreed, the U.S. was prepared to employ U.S. tactical air forces in a one-time combined operation with the Salvadorans against PRTC base camps, provided that collateral damage could be limited. The Emissary also said that after the operation, the U.S. would publicly make clear that American participation in the operation was directly related to the killing of the U.S. Marines, in the context of combatting international terrorism rather than the insurgency situation in El Salvador. President Duarte responded that he could not agree to any direct U.S. military action in El Salvador, but he told his visitors that his government would do all it could to strike the FMLN guerrillas.

(U) On the afternoon of July 3, the JCS/J3 cancelled the warning order that had been issued on June 29. That action effectively terminated Operation NINE IRON. Once again, those we interviewed were unable to remember who inside or outside of the DoD made the decision to terminate the operation or why the decision was made. Neither the Chairman, Joint Chiefs of Staff, nor the Secretary of Defense had any specific memories of the response to the Zona Rosa massacre. The documentation available in DoD sheds no light on the issue. The records of the National Security Council indicate that the National Security Planning Group was scheduled to meet on the morning of July 3 and that military planning for El Salvador was on the agenda. However, the records

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do not include minutes of the meeting. The Secretary of Defense did recall that when various possible military activities were discussed from time to time, the President was frequently dissuaded by the problem of collateral damage and the fact that non-terrorist civilians or children might be hit by mistake. A brief item in the July 15, 1985, issue of *Newsweek* suggests that may have occurred in the case of Operation NINE IRON. The item reports that at a July 2 meeting [sic], members of the National Security Planning Group finally talked the President out of ordering an American air strike on Salvadoran rebel bases because it would bring death to the women and children who live in the guerrilla camps and because any direct American intervention would badly embarrass President Duarte.

(U) **Allegations of Reprisal Actions.** On June 15, 1995, the *Seattle Post-Intelligencer* reported that U.S. Army Rangers from Fort Lewis, Washington, had raided a terrorist training camp in El Salvador late in the summer of 1985, in retaliation for the slaying of six Americans weeks earlier. The newspaper said that, according to an unnamed ex-Ranger who had participated in the raid, his 11-man unit had been separated from the 2nd Ranger Battalion and taken to the Yakima Training Center weeks before the raid to preserve the secrecy of the operation. A C-130 took them to a rough airstrip in Central America, where they were met by three men in civilian clothes who briefed them on the details. The next night, wearing bright purple cloth strips for identification, they boarded a CH-53 transport helicopter. After a 3-hour flight, they slid down ropes from the helicopter into a jungle terrorist training camp in El Salvador near dawn. Camp guards were awake, and gunfire erupted immediately. In a 12-minute firefight, the Rangers had killed all 83 terrorists in the camp while taking only minor casualties themselves.

(U) We found no evidence that such a retaliation raid ever occurred. Just after the article appeared in the *Post-Intelligencer*, the Vice Chief of the Army asked the Army Staff to determine if the Army had any information on the alleged operation. The Army Staff responded that there was no information to substantiate the allegation in the records of the Army Staff, the U.S. Army Intelligence and Security Command, or the U.S. Special Operations Command. Further, the Staff reported that knowledgeable action officers indicated that many of the details in the newspaper's article appeared questionable: the use of bright purple bands for identification, which was not normal Ranger practice; the use of a CH-53, which was rarely used in Central America; the 3-hour flight time, which is excessively long for an operation in Central America; and, the relatively small number of Rangers used in comparison to the number of terrorists said to be in the targeted camp.

(U) When news of the *Post-Intelligencer* article reached El Salvador, a PRTC leader told a Salvadoran newspaper that "no one remembers such an occurrence." Two Salvadoran military officers *

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Other Actions in Response to the Massacre (U)

that they had no knowledge of any incidents like that reported by the *Post-Intelligencer* and that such an incident would have been common knowledge if it had occurred. We asked the U.S. Embassy Charge, the Defense Attache, the Military Group Commander, and the CIA Chief of Station who were in El Salvador at the time if there was any validity to the *Post-Intelligencer* report. Each responded that they had never been involved in, or heard of, such a retaliation action; each also said that if one had occurred, they would have learned of it quickly from their Salvadoran counterparts.

(U) Finally, we interviewed the officer who was in command of the 2nd Ranger Battalion at the time of the alleged raid. He told us that none of the personnel in his unit had participated in such a raid. He said that while elements of the unit often deployed to the Yakima Training Center, they never did so without the battalion commander's knowledge. He said that the ex-Ranger's story was not credible because Rangers do not fight the way the ex-Ranger says they did and because it would have been impossible to keep such an operation hidden from the families of those who participated in it. Moreover, he said that he had given the author of the *Post-Intelligencer* article the same information when the reporter called him to check the story of the ex-Ranger several months before the article was published.

(U) We encountered one other allegation that direct U.S. military action had been taken in El Salvador after the Zona Rosa massacre. However, the allegation does not link the action with a reprisal for the Zona Rosa massacre. In early January 1986, two Salvadoran guerrilla clandestine radio stations, Radio Venceremos and Radio Farabundo Marti, alleged that on January 7, 1986, a U.S. Navy warship just offshore had fired three artillery rounds into an area in southeastern Usulután Department. According to the radio stations, the rounds were fired in support of a Salvadoran military unit that was engaged in a battle with an FMLN guerrilla unit. There is no evidence that the allegation had any validity. We found nothing to indicate that there was a U.S. Navy combatant ship near El Salvador in January 1986. The Deputy Chief of Mission, the Defense Attache, and the Military Group Commander in El Salvador at the time told us that the cornerstone of U.S. policy was that the U.S. would not employ U.S. forces directly in the war between the FMLN and the Salvadoran government.

(U) In fact, there was usually a U.S. Navy ship off the coast of El Salvador during the war. The type of the ship varied, *

The ship on station in January 1986 was the USS SPHINX. The SPHINX was a tank landing ship that had been converted to a light repair ship. It carried eight forty millimeter guns with a range of about three nautical miles. A review of the SPHINX log shows that the ship was steaming off the coast of southeastern Usulután Department on January 7, 1986; however, all of

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the ship's recorded positions were at least eight nautical miles from the coastline. The presence of the SPHINX may have led FMLN propagandists to make the allegation that a U.S. warship had fired on their forces.

Salvadoran Military Retaliation Actions (U)

(U) While U.S. military forces never conducted a reprisal operation in response to the Zona Rosa massacre, Salvadoran military forces did target the PRTC in retaliation for the massacre. U.S. intelligence agencies reported that Salvadoran forces conducted at least six operations against PRTC base camps in the month after the Zona Rosa massacre.

(U) Salvadoran military actions began on June 24, 1985. The initial operation, which continued through July 3, was conducted by a Salvadoran Army battalion against base camps of the PRTC and another FMLN faction in northern San Miguel Department. During the operation, 18 PRTC members were killed and 3 captured. One of those killed was Arlen Siu, the leader of the Eastern Region Political-Military Command and ninth ranking member of the PRTC, whose loss Pedro Andrade called a serious blow a few weeks later.

(U) On June 25, the Salvadoran Air Force struck two PRTC camps in northern San Vicente Department, employing what the Air Force termed a "pink team." A "pink team" conducted air-ground operations that involved the use of observation helicopters, gunship helicopters, AC-47 gunships, and A-37 fighter-bomber aircraft in conjunction with helicopter-delivered ground forces. * several aircraft bombed and strafed the two camps, and special Air Force units later disembarked in the area; casualties were not reported.

(U) The Salvadoran Air Force conducted a "pink team" operation against a third PRTC camp in northern San Vicente on June 28. Two PRTC members, both Honduran, and several documents were captured.

(U) In another "pink team" operation on July 3, the Salvadoran Air Force targeted a suspected PRTC command post in northern San Vicente Department. The camp was evacuated prior to the air strikes, but the follow-on ground forces were able to engage the escaping guerrillas. *

(U) With the support of Salvadoran Air Force aircraft, the Salvadoran Long Range Reconnaissance Patrol--known as the PRAL--conducted an

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operation against a suspected PRTC command post in western Usulután Department on July 5. The PRAL encountered a guerrilla force before reaching the suspected command post. Three PRTC members were killed in the firefight, and another forty were estimated to have been killed in the air strikes conducted in support of the PRAL.

(U) From July 14 through July 16, Salvadoran ground units swept the PRTC base camp area in northern San Vicente Department, targeting several camps. They made no significant contacts, indicating that PRTC units might have evacuated the area. A new PRTC command post was identified in a newly established camp in northwestern Morazan Department on July 23, leading CAJIT analysts to conclude that the PRTC leadership may have moved eastward to avoid the Salvadoran military pressure on PRTC base areas in northern San Vicente and western Usulután Departments.

(U) The series of Salvadoran military operations against the PRTC in the month after the Zona Rosa massacre led the Secretary of Defense to tell Mutual Radio on July 31 that, "The Salvadoran government, with our assistance, has taken care of, in one way or another, or taken prisoner or killed...a number of people who participated in [the Zona Rosa massacre]." The Secretary made that statement after receiving a copy of a message from the Commander in Chief, U.S. Southern Command, to the Chairman, Joint Chiefs of Staff, outlining Salvadoran military actions in response to the Zona Rosa massacre; the Secretary had forwarded that message to the President.

(U) A DoD spokesman later clarified that the U.S. assistance to which the Secretary referred was information provided by U.S. intelligence agencies. We determined that U.S. intelligence agencies did provide the Salvadoran military with tactical military information that the Salvadorans could have used to target the PRTC base camps attacked in June and July 1985.

(U) Salvadoran military operations against the PRTC continued beyond July 1985, and those operations had a significant impact on the PRTC.

(U) In August 1987, CAJIT analysts reported that the PRTC suffered a series of military reversals and a string of desertions following the Zona Rosa massacre. By mid-1987, PRTC combatant strength had declined by 41 to 44 percent from the mid-1985 level of 530 to 650. The PRTC leadership had been forced to move the faction's headquarters from northern San Vicente to northwestern Morazan Department due to Salvadoran military pressure. The Mardoqueo Cruz Commando unit had been almost completely destroyed by the Salvadoran military, and the PRTC's urban presence had probably been reduced to a cadre group of two or three persons.

Other Actions in Response to the Massacre (U)

(U) In October 1988, CAJIT analysts reported that Salvadoran military operations in the Guazapa region during 1986 had severely damaged the PRTC infrastructure in the third of its three major, pre-Zona Rosa massacre base camp areas. By early 1987, the PRTC had been forced to withdraw the bulk of its remaining elements from the region due to attrition.

(U) In April 1989, CAJIT analysts reported that the PRTC combatant strength had declined another 14 percent from the mid-1987 level. The PRTC had been able to rebuild an urban commando force by early 1988, conducting 12 actions in February; however, several commandos were captured at the end of the month, and the PRTC began rebuilding again. By early 1989, the PRTC urban commando force consisted of at least four cells of four or five individuals, but the force was not known as the Mardoqueo Cruz Urban Commandos. That title was never reactivated.

Appendix A. Responses to the Committee's Questions (U)

1. What information the department/agency has on perpetrators/intellectual authors of the murders and the subsequent investigation into the matter?

(U) **Perpetrators/intellectual authors.** There were reportedly at least 15, and as many as 19 or more, participants in the Zona Rosa massacre. The direct participants in the massacre reportedly included eight individuals in a four-member strike team and what was probably a four-member cover team, although seven names were associated with the cover team. The indirect participants reportedly included at least seven, and as many as nine or more, individuals in the planning and direction group, the surveillance and transportation group, and the support group. There was probably only one planner and director of the massacre, although two other names have been mentioned. The surveillance and transportation group included one or more unknown individuals. The support group was made up of five individuals. Of the 15 to 19 or more participants, 3 were reportedly killed--1 in the massacre and 2 in Salvadoran air strikes--6 were apprehended, and the remaining 6 to 10 or more remained at large. Of the six apprehended, three were tried and convicted, one was tried and acquitted, and one was never indicted; the fate of one is unknown.

(U) **Subsequent Investigation.** DoD did not participate in either the criminal investigation or prosecution of those apprehended. Three DoD organizations supported the Central Intelligence Agency Chief of Station in assisting Salvadoran investigators. The Defense Intelligence Agency's Central American Joint Intelligence Team sent an analyst to El Salvador to help develop information on the organization responsible for the Zona Rosa murders. *

The Naval Investigative Service Resident Agent in San Diego was apparently the first to alert concerned agencies of a break in the case. The Naval Investigative Service also opened a case in 1987 to support a Federal Bureau of Investigation prosecutorial investigation by providing the Bureau with personnel and medical records of the murdered Marines and by assisting the Bureau in identifying and locating eight DoD personnel who might be potential witnesses.

2. What action has been taken by officials from the department/agency against the perpetrators/intellectual authors of the murders?

(U) DoD officials took no action against any individual identified as an actual or suspected perpetrator or intellectual author. DoD did take actions against the PRTC and other FMLN guerrilla factions in El Salvador as part of the

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Appendix A. Brief Responses to the Committee's Questions (U)

interagency response to the murders. The Department expedited delivery of essential security assistance items, recommended asking Congress for a supplemental military assistance appropriation for Fiscal Year 1985, and provided intelligence support to the Salvadoran military through the Chief of Station. DoD also considered retaliatory military action against the organization responsible for the massacre (See Question 8).

3. What information the department/agency received from the perpetrators/intellectual authors of the murders?

(U) The DoD received no information directly from any of the individuals connected with the massacre, with the exception of the Naval Investigative Service agent's participation in the interview of one individual in California in August 1985. The DoD later received information on the massacre from that individual and two others through Central Intelligence Agency reporting and Salvadoran interrogation reports that were provided to the Central American Joint Intelligence Team or the U. S. Army's 470th Military Intelligence Brigade. The DoD also received information on the PRTC and the FMLN guerrilla movement from a fourth individual connected with the massacre, Pedro Andrade, through Central Intelligence Agency reporting and Salvadoran interrogation reports, and that information was used in finished intelligence products published by the Central America Joint Intelligence Team.

4. What relationship the department/agency had, either before or after the murders with the perpetrators/intellectual authors of the murders or other individuals known or suspected to have been involved?

(U) The DoD had no relationship with anyone known or suspected to have been involved with the massacre, either before or after the murders. *

5. What role the department/agency has played in the investigation of the murders and what priority has been placed on the investigation?

(U) The DoD has played no direct role in the investigation (See Question 1). However, the DoD supported other agencies when required or requested (See Questions 1 and 6).

6. What role the department/agency played in determining whether any of the known or suspected perpetrators/intellectual authors of

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Appendix A. Brief Responses to the Committee's Questions (U)

the murders, or members of their families, were authorized to travel to or take up residence in the United States, and under what conditions and with what justification. In addition, whether or not any wrongdoing, negligence, or a breach of procedures occurred in allowing known or suspected Zona Rosa perpetrators/intellectual authors of the murders to enter or remain in the United States, and if so by whom. If suspected perpetrators/intellectual authors of the murders are in this country illegally, or without current authorization, what is being done to correct the situation?

(U) No DoD organization or official played any role in determining whether any of the known or suspected perpetrators or intellectual authors of the Zona Rosa massacre, or members of their families, would be authorized entry into the U.S. There is no indication that, prior to the fall of 1995, any DoD personnel were aware of the fact that one of the participants in the massacre, Pedro Andrade, had been paroled into the U.S. or that his family had received CIA funds in return for the intelligence information he provided. When the possibility that the Salvadoran Supreme Court might give two of the massacre participants amnesty in September 1989, the U.S. Marine Corps did assist the Federal Bureau of Investigation by putting an aircraft on alert to transport the two participants to the U.S., one for prosecution and one as a witness; however, the aircraft was not used because the Salvadoran Supreme Court decided not to give the two amnesty.

7. What dealings, since the murders, the agency has had with the government of El Salvador on this matter, and whether in the course of that relationship the Salvadoran government demonstrated an aggressive effort to identify, prosecute and incarcerate the perpetrators/intellectual authors.

(U) DoD organizations and personnel had limited interaction with the Government of El Salvador regarding Salvadoran efforts to identify, prosecute and incarcerate those involved in the massacre. The Commander in Chief, U.S. Southern Command accompanied a Special Presidential Emissary to a meeting with Salvadoran President Duarte on July 2, 1985. The Chairman, Joint Chiefs of Staff, delivered a Presidential letter to President Duarte in September 1985.

8. What specific action and or information the department/agency now has, or may have provided [sic] regarding any reprisal for the Zona Rosa terrorist act?

(U) The Joint Chiefs of Staff planned and rehearsed a military retaliation option in response to the massacre. The concept of the operation, called Operation NINE IRON, was to conduct air strikes on guerrilla base camps in El Salvador, employing * gunships from *. As part of the planning effort, two armed and ready-to-fire * aircraft were over El

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Appendix A. Brief Responses to the Committee's Questions (U)

Salvador on two consecutive nights with precise targets to be engaged, if directed, beginning 11 days after the massacre. The aircraft were never directed to engage a target, no weapons were fired in El Salvador, and Operation NINE IRON was terminated after two rehearsal missions. We found no evidence that U.S. Army Rangers ever conducted a retaliation raid against a terrorist training camp in El Salvador, as reported in the *Seattle Post-Intelligencer* on June 15, 1995, or that a U.S. Navy warship fired into El Salvador in support of a Salvadoran military unit engaged in battle, as alleged by two guerrilla radio stations in early January 1986.

(U) Salvadoran military forces did conduct retaliation operations against the guerrilla faction responsible for the massacre, supported by information from U.S. intelligence agencies. By mid-1987, the faction's combatant strength had declined 41 to 44 percent from its mid-1985 level of 530 to 650. The urban commando unit that had carried out the massacre had been almost completely destroyed, and the unit was never reactivated.

Appendix B. Additional Report Distribution (U)

Office of the Secretary of Defense

Assistant to the Secretary of Defense (Intelligence Oversight)

Other Defense Organizations

Commander in Chief, U.S. Southern Command

Non-Defense Federal Organizations

Chairman and ranking minority member of each of the following committees:

- Senate Committee on Armed Services
- Senate Select Committee on Intelligence
- House Committee on National Security
- House Permanent Select Committee on Intelligence

- Staff Director, National Security Council
- Executive Director, President's Intelligence Oversight Board
- Inspector General, Department of State
- Inspector General, Department of Justice
- Inspector General, Central Intelligence Agency

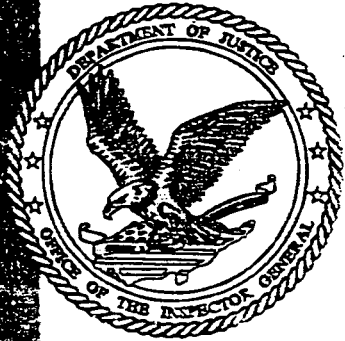
Inquiry Team Members

This report was prepared by the Office of the Assistant Inspector General for Policy and Oversight, DoD.

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U.S. Department of Justice
Office of the Inspector General

**The Department of Justice's
Response to the Zona Rosa
Murders**



Michael R. Bromwich
Inspector General

September 1996

**THE DEPARTMENT OF JUSTICE'S
RESPONSE TO THE ZONA ROSA MURDERS**

—
EXECUTIVE SUMMARY

I. INTRODUCTION

In this report, the Department of Justice (DOJ) Office of the Inspector General (OIG) examines DOJ's response to the 1985 Zona Rosa murders in El Salvador. These murders occurred on June 19, 1985, when four men armed with machine guns and rifles jumped out of a pickup truck and opened fire in the direction of four United States Marines who were sitting at a sidewalk cafe in the Zona Rosa district of San Salvador. Several other armed men provided cover by firing in the direction of the Brazilian Embassy across the street. All four Marines, two United States businessmen, and several other individuals were killed in the attack. On June 21, 1985, the Salvadoran police recovered a note claiming responsibility for the Zona Rosa attack from the Mardoqueo Cruz Urban Commandos of the Partido Revolucionario de los Trabajadores Centroamericanos (PRTC), which was one of five groups comprising the Farabundo Marti National Liberation Front (FMLN), a Marxist guerrilla organization.

The United States government expressed outrage about the murders and vowed that the perpetrators would be brought to justice. In 1995, ten years after the murders, allegations surfaced that several Salvadorans connected to the murders were allowed to enter and live in the United States. As a result, the Senate Select Committee on Intelligence (SSCI), after briefings from officials of the Central Intelligence Agency (CIA), Department of State (DOS), and DOJ, requested a government-wide review of the United States response to the Zona Rosa murders. SSCI provided a list of eight detailed questions to be answered in the review. With respect to DOJ, these questions focused on any information that DOJ had concerning the investigation and prosecution of the alleged perpetrators, the process by which any of the alleged perpetrators were allowed to enter the United States, and any information on an alleged reprisal

for the attack. The Inspectors General of DOJ, DOS, the CIA, and the Department of Defense (DOD) agreed to conduct a joint investigation in response to SSCI's questions, with separate but coordinated Inspector General reports. Each Inspector General's office focused its investigation and report primarily on the actions of its own agency.

In conducting the DOJ OIG review of the DOJ response to the Zona Rosa murders, we first directed all DOJ components to identify and provide to us any documents related to the Zona Rosa murders or their investigation. We received and reviewed over 8,000 pages of documents. We then conducted interviews of numerous DOJ employees who possessed information about the matter, as well as interviews of employees of the CIA, DOS, and DOD in conjunction with investigators from the other OIGs participating in this review.

II. DOJ'S RESPONSE TO THE ZONA ROSA MURDERS: THE CRIMINAL INVESTIGATION AND PROSECUTION

The first section of our report answers SSCI's questions concerning the DOJ investigations and prosecutions of the Zona Rosa perpetrators. In the immediate aftermath of the murders, it was the consensus of United States government officials that the United States should assist the Salvadorans in a military reprisal against the guerrillas and also assist in a Salvadoran investigation and prosecution of the perpetrators.

The initial investigation into the murders was therefore conducted by the Salvadorans, with some assistance from the FBI. Little forensic evidence of value was recovered at the crime scene--which was solely processed by Salvadoran authorities--and the little that was recovered was mishandled and therefore lost its evidentiary value. At the request of the Salvadorans, the FBI analyzed various pieces of the evidence and interviewed alleged witnesses to the attack beginning in August 1985.

However, no specific perpetrators were initially identified. The break in the case came in August 1985 when the United States Border Patrol arrested Juan Miguel Garcia Melendez (Garcia), who was trying to enter the United

States illegally. Garcia volunteered information about the Zona Rosa murders to the Border Patrol, possibly because of a \$100,000 reward that had been offered by the United States for information leading to the capture of the Zona Rosa murderers. Garcia reported that he was part of a guerrilla group and had overheard several other guerrillas who frequented the upholstery shop where he worked discussing the Zona Rosa shooting. This information was relayed to Salvadoran authorities, who raided the upholstery shop and arrested William Celio Rivas Bolanos (Rivas) and Jose Abraham Dimas Aguilar (Dimas).

After extensive interrogation by the Salvadoran authorities, Rivas confessed to participating in the Zona Rosa murders as one of the four gunmen. In addition, in a lineup conducted by the Salvadorans, [REDACTED] at the cafe who had been wounded in the attack, [REDACTED], identified Rivas as one of the gunmen. The Salvadorans charged Rivas with the crime and moved to prosecute him in a Salvadoran military court. Dimas was charged with subversive association with guerrillas, although he was not charged with participating in the Zona Rosa attack. Garcia was deported to El Salvador and was also charged with subversive association with the guerrillas.

In 1987, before the Rivas, Garcia, and Dimas cases were tried, the Salvadoran government considered a general amnesty for anyone who had committed "political crimes" during the civil war. Several crimes against United States citizens were excepted from the amnesty, but the Zona Rosa murders were not. Because of the possibility that the Zona Rosa perpetrators would be released from jail as a result of the amnesty, DOS officials asked DOJ to seek an indictment in the United States against the detained suspects, if possible. DOJ determined that the only charge applicable to the crime was 18 U.S.C. § 1116, which makes the killing of an internationally protected person punishable in the United States. DOJ recognized that El Salvador's constitution prohibits the extradition of Salvadoran nationals and that El Salvador was unlikely to violate its own constitution and release Salvadoran citizens to the United States for prosecution.

DOJ agreed, however, to pursue a potential indictment as a back-up to the Salvadoran prosecutions of the suspects. FBI agents travelled to El Salvador to collect evidence, and DOJ prosecutors also made two trips to El

Salvador to locate evidence and interview witnesses. The DOJ prosecutors located [REDACTED] and arranged for him to be brought to the United States as a potential witness against Rivas.

DOJ prosecutors believed the only viable case was against Rivas, and that it was in essence a one-witness case relying on the testimony of [REDACTED]. The prosecutors concluded that Rivas' confessions could be suppressed in a United States court because of a claim that they were coerced by the Salvadorans and were involuntary. The prosecutors were also concerned about the admissibility of the lineup identification of Rivas by [REDACTED] because the Salvadorans were unable to provide evidence that the lineup was not unduly suggestive.

Despite obstacles faced in a prosecution of Rivas, including the most basic issue of how to obtain custody of him and the lack of admissible forensic evidence, DOJ obtained an indictment of Rivas from a federal grand jury in Washington, D.C. on September 15, 1989. He was charged with murder of an internationally protected person under 18 U.S.C. § 1116 and conspiring to murder an internationally protected person under 18 U.S.C. § 1117. The indictment was returned under seal. DOJ prosecutors concluded that there was insufficient admissible evidence to charge anyone else in the United States.

After numerous appeals and remands on the issue of amnesty in El Salvador, Rivas, Garcia, and Dimas were tried in 1991 by a Salvadoran court and convicted of the charges against them. Rivas was sentenced to 25 years in prison, Garcia to 11 years (later reduced to seven and a half years by an appellate court), and Dimas to four years. Dimas was released in 1992 and Garcia was released in 1993, having served their full sentences. In 1995, the Salvadorans passed a law prohibiting the incarceration of a juvenile for over seven years. Rivas, who was seventeen at the time of the Zona Rosa murders, was released from prison, having served ten years of his sentence.

Although the United States indictment of Rivas is still pending, the DOJ prosecutors assigned to his case believe that Rivas could not be prosecuted successfully in the United States because [REDACTED] value as a witness has substantially declined. After [REDACTED] came to the United States, he admitted to committing a murder in El Salvador in retaliation for the rape of his girlfriend.

In addition, in 1991, [REDACTED] was convicted in Virginia for molesting the minor child of his girlfriend, and he is currently serving a 20-year sentence in a Virginia state prison.

In July 1988, the Salvadoran authorities arrested another alleged participant in the Zona Rosa attack, Juan Antonio Morales-Lucero (Morales). Morales allegedly confessed to being one of the guerrillas who provided security during the attack. The FBI received reports concerning his arrest and confession shortly after they occurred. Yet, these reports were not conveyed to the DOJ prosecutors handling the case. Nor did the FBI include any information about Morales in the FBI's prosecutive report on the Zona Rosa case, which was issued in November 1988. Had the FBI passed the information to prosecutors, further investigation could have been conducted about Morales' involvement in the attack. Morales claimed at his trial in El Salvador in 1993 that his confession was coerced, and he was acquitted by the jury, after having spent five years in detention awaiting trial. By that time, the statute of limitations on any United States prosecution had run. However, DOJ prosecutors reported that they would not have sought an indictment against Morales based on his confession alone.

Our overall conclusion about the Salvadoran investigation and prosecution of the Zona Rosa perpetrators is that the Salvadorans made aggressive efforts to identify and prosecute the perpetrators of the Zona Rosa attack. A criminal prosecution of guerrillas in the middle of the Salvadoran civil war was an unusual concept in El Salvador. The Salvadoran prosecution of Zona Rosa defendants was therefore surprising. While the Salvadoran investigation, particularly the handling of evidence, was flawed when measured against United States standards, the Salvadorans aggressively sought the prosecution of those individuals involved in the attack who they were able to identify and apprehend.

We also conclude that DOJ's efforts to prosecute the Zona Rosa murders were reasonable and DOJ's prosecutive decisions appropriate, given the background and facts of the case. DOJ prosecutors and FBI investigators made substantial efforts to uncover admissible evidence against the Zona Rosa perpetrators. DOJ energetically pursued the prosecution of Rivas at the request

of DOS, despite the fact that the United States indictment was sought only as a back-up to the Salvadoran prosecution and uncertainty that the United States would ever gain custody of any Salvadoran defendants. DOJ's current belief is also reasonable that a prosecution of Rivas for a crime over ten years old would not be successful. In addition, DOJ prosecutors made the reasonable prosecutive judgment that there was insufficient admissible evidence against anyone else to bring an indictment in the United States.

III. DOJ'S RELATIONSHIP WITH THE PERPETRATORS/ INTELLECTUAL AUTHORS

This section answers SSCI's questions about DOJ's relationship and contact with the perpetrators. DOJ had no relationship with any of those allegedly involved in the attack. The United States Border Patrol, FBI, and Naval Investigative Service interviewed Garcia in August 1985, when he was arrested trying to enter the United States. DOJ prosecutors also interviewed Garcia when he was in prison in El Salvador in 1988. In both interviews, Garcia denied participating in the attack. The FBI interviewed Pedro Antonio Andrade, the alleged mastermind of the Zona Rosa murders, after his capture in May 1989.

IV. THE ENTRY OF THE ZONA ROSA SUSPECTS INTO THE UNITED STATES

The next section of the report examines the entry into the United States of two persons allegedly connected to the Zona Rosa attacks, Pedro Andrade and Gilberto Osorio.

A. Andrade

We first discuss the entry of Andrade into the United States pursuant to a three-year public interest parole granted by the Immigration and Naturalization Service (INS) at the request of DOS. Andrade had been arrested by the Salvadorans in May 1989 and was believed to be the mastermind of the Zona Rosa murders. The CIA wanted to exploit him for his intelligence value, but DOJ did not want any debriefing of him to interfere with a possible United

States prosecution of him. As a result, the CIA Station in El Salvador was told it could talk to him, but it should avoid any discussion of the Zona Rosa matter. On June 6 through 8, 1989, an FBI agent from Mexico City and the United States Embassy's Legal Officer interviewed Andrade about his alleged involvement in the murders. Andrade denied participating in the attack, although he did admit being asked by guerrillas to arrange for a safehouse and doctor in anticipation of an attack on "gringos." Andrade said he was not able to make those arrangements.

After the interview, the Embassy's Legal Officer arranged for the Salvadorans to polygraph Andrade about his role in the attack. After initial inconclusive results, a second Salvadoran polygraph was reported to support Andrade's truthfulness. As a result, in September 1989, the Embassy requested that DOJ decline to extradite or prosecute Andrade, and a proposal for parole of Andrade into the United States was raised. The evidence indicates that the CIA Station supported the idea of parole for Andrade at this time.

The proposal to parole Andrade into the United States was met with strong resistance from DOJ, because DOJ prosecutors believed Andrade was implicated in the attack, even though they did not have sufficient admissible evidence to prosecute him in the United States. In September and October 1989, a series of meetings among DOJ, DOS, and CIA officials were held in Washington to discuss the parole request. In an interagency meeting on October 5, 1989, an agreement was reached that Andrade would not be paroled into the country unless it could be shown that he was not involved in the Zona Rosa murders and unless further interagency discussions were held and agreement reached concerning his parole.

In December 1989, after reviewing the CIA's intelligence concerning Andrade, DOJ prosecutors remained convinced that, although there was insufficient evidence to prosecute him, Andrade had been involved in the murders and should not be paroled into the United States. CIA Headquarters attorneys also reviewed CIA intelligence files and were convinced that Andrade was implicated in the attack. In January 1990, CIA Headquarters notified the

Station in El Salvador of its findings and informed the Station that any proposal to provide assistance to Andrade would be met with strong resistance from DOJ.

On March 27, 1990, the Embassy sent a cable to DOS again requesting Andrade's parole. Informational copies were sent to the CIA and the FBI, but the cables were not sent to the attention of any of the participants in the previous interagency meetings on Andrade. The parole request cable stated that the Embassy did not believe Andrade was involved in the murders, but it did not mention the opposition of DOJ to the parole or the agreement that further interagency meetings should be held to discuss any subsequent parole request. Neither the Embassy nor DOS in Washington contacted DOJ prosecutors about the parole request. The CIA Station did not cable CIA Headquarters about the parole request or the circumstances surrounding it. CIA Headquarters apparently received an informational copy of the parole request, but the CIA did not take any action to notify the interagency participants. Moreover, although the cable was sent to the FBI, FBI Headquarters did not notify DOJ prosecutors. FBI Headquarters forwarded the cable to the FBI's Washington Metropolitan Field Office (WMFO), the field office responsible for the Zona Rosa case, and to the Mexico City Legat office, without comment or any request for action. No one in WMFO or the Legat notified the DOJ prosecutors handling the Zona Rosa case about the parole request.

As a result, DOJ prosecutors did not learn of the parole request, and no interagency discussions concerning the parole request ever occurred. Rather, a visa officer at DOS asked the INS to approve Andrade's parole in a routine fashion, without notifying INS about the significant opposition to the parole from the DOJ prosecutors, the FBI, or others. The INS granted the parole request and Andrade entered the United States in June 1990. DOJ prosecutors were furious when they first learned of Andrade's parole in July 1990, after he had already entered the United States.

In reviewing Andrade's entry into the United States, we conclude that fault in this matter must be shared by many parties. First, the Embassy should have sent the parole request to the interested parties or notified them of it, rather than relying on a routine parole request to accomplish this task. Second,

the DOS employees who received the cable should have notified DOJ prosecutors or convened another interagency meeting to discuss the parole request. Third, the FBI failed to handle the parole request appropriately. Specifically, FBI agents in Headquarters, which we find had primary responsibility for coordinating an interagency matter such as the parole, failed to notify the DOJ prosecutors about the request. A supervisory agent at WMFO recognized the importance of the matter and instructed the agent in charge of the case to brief the prosecutor. There is no evidence that this agent ever did so. The case agent had no recollection of this matter or why the prosecutor was not briefed. Had anyone taken any of these steps, an interagency meeting would have taken place, the DOJ attorneys would have opposed Andrade's parole, and it is unlikely that the parole would have been granted.

We conclude that it was not improper for INS to approve the parole request as it did, given the limited information it had available and the routine way the parole request was presented to it. INS received no information about any controversy or objections to the parole when it received the parole request. Absent such indication, INS's reliance on the representations from DOS was not inappropriate.

We also find that the coordination of parole requests needs improvement. The process for the approval of visas is better coordinated, with opportunity for objection by law enforcement authorities to proposed visas in certain categories. A procedure requiring similar coordination of parole requests should be considered. Such coordination would ensure that all important information would be available to the decision-maker and would keep other parole requests from slipping through the system, as this one did.

Andrade's parole has expired, and he has not sought to become a legal resident. INS has decided to begin an exclusion proceeding against him but has not yet done so.

B. Osorio

Our report next turns to the alleged involvement of Gilberto Osorio in the Zona Rosa attacks. Osorio is a United States citizen currently living in San Francisco. During the 1980s he fought with the guerrillas in the civil war in El Salvador. In a "60 Minutes" program broadcast in May 1995, narrator Ed Bradley stated that Osorio had admitted to helping plan the Zona Rosa attack. However, in an interview with a newspaper reporter after the broadcast, and in an interview with the FBI in December 1995, Osorio denied making this statement. Osorio admitted that he had fought alongside the guerrillas in El Salvador. He also said that he believed that United States military personnel who were participating in battles against guerrilla forces were legitimate targets, but he said he was in no way involved in or had any advance knowledge of the Zona Rosa attack on the United States Marines. Our review found no information that Osorio was involved in the Zona Rosa attack.

V. DOJ INFORMATION ON REPRISALS FOR THE ZONA ROSA MURDERS

The final section of our report answers SSCI's question concerning DOJ's knowledge of any possible military reprisals for the Zona Rosa murders. DOJ had no knowledge of any such reprisals or any other military action connected to the Zona Rosa murders.

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**THE DEPARTMENT OF JUSTICE'S
RESPONSE TO THE ZONA ROSA MURDERS**

I. INTRODUCTION

A. Background

On June 19, 1985, at approximately 9:30 p.m., four United States Marines, two United States businessmen, a Guatemalan, a Chilean, and four Salvadorans were killed in a machine gun attack in the Zona Rosa area of San Salvador, El Salvador. The Marines were sitting at tables in front of Chili's, a sidewalk cafe that was frequented by United States Embassy personnel on an almost nightly basis. The Marines were attached to the United States Embassy Security Guard Detachment and, although not in uniform, were easily identifiable as United States Marines by their haircuts, clothing, and security radios.

Witnesses recounted that the murders occurred when a group of heavily armed men travelling in the back of a pickup truck pulled up to the curb in front of the cafe. Several men armed with machine guns and rifles came out of the truck and opened fire in the direction of the Marines, who were sitting at a cafe table within a few feet of the curb. Several other armed men provided security by directing gunfire towards the Brazilian Embassy across the street.

On June 21, 1985, a juvenile delivered an envelope to the Salvadoran National Police containing a communique he said he found in a telephone booth. The envelope contained a note from a Salvadoran guerrilla group called the Central American Revolutionary Workers Party (the Partido Revolucionario de los Trabajadores Centroamericanos or "PRTC"), which was one of the guerrilla groups constituting the Farabundo Marti National Liberation Front (FMLN). The communique stated that the FMLN claimed responsibility for the "annihilation attack against American military advisors."

The United States government expressed outrage over the murders and vowed that action would be taken against the perpetrators. On June 22, 1985, at a memorial service at Andrews Air Force Base for the murdered United States Marines, President Reagan promised to use United States power to bring to justice those involved in the Zona Rosa slayings. The United States government also offered a \$100,000 reward for information leading to the effective prosecution and punishment of those responsible for the attack.

In 1995, allegations surfaced that several Salvadorans possibly connected to the murders were not captured or prosecuted but were allowed to enter and live in the United States. This allegation was first aired in a "60 Minutes" report that was televised on May 21, 1995. The "60 Minutes" report stated that Gilberto Osorio had participated in the Zona Rosa murders and was living in San Francisco at the time of the broadcast.

On June 21, 1995, the Senate Select Committee on Intelligence (SSCI) held a closed hearing in which the Zona Rosa murders were discussed. Senator Richard Shelby asked Director of Central Intelligence (DCI) John Deutch to review the Zona Rosa matter and to determine whether the CIA had played any role in helping Osorio come to the United States.

On October 12, 1995, officials from the CIA, the Department of State (DOS), and the Department of Justice (DOJ) briefed SSCI on the Zona Rosa murders and the United States response to them. The CIA officials stated that Osorio was a United States citizen and that the CIA had searched its intelligence files but found nothing to indicate that Osorio had been involved in the murders. The CIA reported, however, that in 1990 a Salvadoran allegedly connected to the murders, Pedro Andrade, had received a three-year parole that enabled him to enter the United States. Although Andrade's parole had expired, he was still living in the United States. DOS and DOJ confirmed the information provided by the CIA. DOJ added that the statute of limitations had run on any criminal charges against Andrade in the United States.

On February 22, 1996, in letters sent to the Attorney General, the DCI, the Secretary of State, and the Secretary of Defense, SSCI requested that the Inspectors General of these agencies conduct a government-wide review of the

facts surrounding the Zona Rosa murders. SSCI's letter listed eight specific questions to be answered. The Inspectors General agreed to conduct a joint investigation in response to SSCI's request, with separate but coordinated reports. Each Inspector General's office focused its investigation and report primarily on the actions of its own agency.

B. Objective, Scope, and Methodology of the Investigation

As an initial step in our investigation, the DOJ Office of the Inspector General (OIG) requested that DOJ components identify and provide to the OIG all documents in their files relating to the Zona Rosa murders. In response to this request, we received over 8,000 pages of documents. Almost all these documents came from Federal Bureau of Investigation (FBI) Headquarters, the FBI's Washington Metropolitan Field Office (WMFO), the FBI's Mexico City Legal Attache Office (Legat), the Immigration and Naturalization Service (INS), and the United States Attorney's Office (USAO) for the District of Columbia.

After receiving these documents, we interviewed numerous witnesses knowledgeable about the Zona Rosa matter. These interviews were conducted jointly with the other three OIG offices involved in the review. Each OIG office was responsible for arranging interviews with witnesses from its respective agency and for leading the questioning of its witnesses, but all OIGs were permitted to participate in the questioning.

To allow DOJ witnesses to prepare for their interviews and to refresh their recollections about events that occurred many years ago, we provided all DOJ witnesses with access to the relevant documents before they were interviewed. Most of the DOJ witnesses took advantage of this offer.¹ Unfortunately, however, a review of documents could not bring back some witnesses' specific recollection of events that occurred five to ten years ago.

The four OIG offices involved in this review shared documents related to

¹ Witnesses from other agencies for the most part did not review documents before their interviews.

issues of mutual interest. As a result, we reviewed numerous documents collected by the three other OIGs. This step was important, because documents collected by other OIGs were critical in understanding what DOJ employees had done with regard to the Zona Rosa murders and why DOJ employees took certain actions.

In the course of our investigation, we interviewed DOJ prosecutors involved in the Zona Rosa case, FBI agents who handled the matter in the Washington Metropolitan Field Office, FBI agents from the Mexico City Legat, the INS officer who approved the parole of Andrade, and the INS attorney currently reviewing Andrade's immigration status. We also participated in the interview of over twenty-five witnesses from other agencies. All told, we reviewed thousands of pages of documents and participated in interviews of approximately forty witnesses.

C. Organization of this Report

This report is divided into four sections. Each section will answer several related questions asked by SSCI in its February 22, 1996, letter to the Attorney General. In Section II of the report, we answer SSCI's Questions 1, 2, 5, and 7, which focus on the Salvadoran and DOJ investigations in response to the murders, information received by DOJ about the perpetrators of the murders, and DOJ's dealing with the Salvadoran government concerning its investigation into the murders. To answer these questions, we provide a chronological account of the Salvadoran and DOJ investigations after the murders took place. The section starts with a description of DOJ's initial role in providing support for the Salvadoran investigation. We describe the Salvadoran investigation, DOJ's assistance to the Salvadoran investigation, and the arrest by the Salvadorans of several suspects. Section II details the opening of a DOJ investigation when El-Salvador was considering releasing the suspects in 1987. Section II then describes DOJ's investigation, leading to an indictment in the United States against William Celio Rivas Bolanos (Rivas), one of the gunmen in the attack. This section also summarizes information DOJ obtained on other perpetrators and "intellectual authors" of the murder. It concludes with our assessment of DOJ's investigative efforts.

Section III of this report discusses SSCI's Questions 3 and 4, which ask whether DOJ had any relationship with the perpetrators of the murders or received any information from the perpetrators. We found no evidence that DOJ had any relationship with the perpetrators. DOJ received information from Juan Miguel Garcia Melendez when he was apprehended by the United States Border Patrol in August 1985 and gave a statement. DOJ also received information from Pedro Andrade when the FBI interviewed him after his capture in May 1989. DOJ obtained no other information from the perpetrators, although in the course of DOJ's investigation, it reviewed statements given by the alleged perpetrators to Salvadoran authorities and to others.

Section IV of the report answers Question 6, which asks about the entry into the United States of any perpetrators of the murders. This section discusses in detail the process by which the alleged planner of the attack, Pedro Antonio Andrade, also known as *Mario Gonzales*, came to receive a public interest parole into the United States. In chronological order, this section describes the actions that led to Andrade being paroled into the United States in 1990 without the knowledge of the DOJ prosecutors handling the case. We describe the parole request and how it was granted. We then describe Andrade's current immigration status. In this section, we also address the information in DOJ's possession concerning Osorio, a United States citizen who fought with the Salvadoran guerrillas and now lives in San Francisco. We found no evidence that DOJ has or had any information indicating that Osorio had any role in the Zona Rosa attack.

The final section, Section V, answers SSCI's Question 8, which relates to United States reprisals for the Zona Rosa murders. We found no evidence that DOJ had any information about any such reprisal.

Attachment A is a chronology of events outlining DOJ actions and significant events in the Zona Rosa matter. Attachment B is a glossary of names and terms used in the report.

II. DOJ'S RESPONSE TO THE ZONA ROSA MURDERS: THE CRIMINAL INVESTIGATION AND PROSECUTION

A. Introduction

This section of the Report responds to SSCI's Questions 1, 2, 5, and 7, which state:

- Question One: What information does DOJ have on the perpetrators/intellectual authors of the murders and the subsequent investigation into this matter?
- Question Two: What action has been taken by officials from DOJ against the perpetrators/intellectual authors of the murders?
- Question Five: What role did DOJ play in the investigation of the murders and what priority has been placed on the investigation?
- Question Seven: What dealings, since the murders, has DOJ had with the government of El Salvador on this matter, and in the course of that relationship, has the Salvadoran government demonstrated an aggressive effort to identify, prosecute, and incarcerate the perpetrators/intellectual authors?

B. DOJ's Role in the Immediate Aftermath of the Murders

As was clear from our interviews of government officials involved in the response to the Zona Rosa attack, the consensus of the United States government after the murders was that it should assist the Salvadorans in a military response to the murders and also assist the Salvadorans in prosecuting the murderers in the Salvadoran courts, if they could be apprehended, rather than seek to prosecute the murderers in the United States. All agencies, including DOJ, were in agreement on this principle.

We were informed that a military response was the primary option initially considered by the United States. Langhorne Anthony Motley, the Assistant Secretary of State for American Republic Affairs, David Passage, the Charge d'Affairs in the United States Embassy in El Salvador, and General John Galvin, Commander in Chief, United States Southern Command, all reported to us that the initial focus of United States efforts in response to the murders was on military action.² For example, Passage, said he had no recollection of any effort to bring the perpetrators of the massacre to justice in a court proceeding. He said that the situation did not lend itself to that kind of resolution. Passage stated that the Salvadorans, with the aid of the United States, were engaged in the "prosecution of a war," not in trying to bring individuals to justice in the courts.

Moreover, when a judicial response was considered, it was agreed that the preferable forum to prosecute the perpetrators was in El Salvador. Shortly after the murders, the FBI consulted with the General Litigation and Advice Section (GLAAS) of DOJ and determined that jurisdiction in the United States to prosecute the killers would exist if the government could prove that the Marines were internationally protected persons, as defined in 18 U.S.C. § 1116. This statute makes the killing of an internationally protected person, no matter where it occurs, punishable under United States law.³ GLAAS

² The DOD OIG's report should be consulted for information on the proposed military response.

³ An internationally protected person is defined in 18 U.S.C § 1116(3) as:

(A) a chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

concluded that the Marines qualified as internationally protected persons under this statute. In 1985, this crime was punishable by a maximum sentence of life in prison.⁴

Despite the possibility of a United States prosecution under § 1116, it was agreed by DOJ, DOS, and other United States government agencies that a Salvadoran prosecution, rather than a prosecution in the United States, was preferable for several reasons. First, the physical evidence and the witnesses to the crime were in El Salvador, and there was no indication that the Salvadorans would provide either the evidence or the necessary witnesses for a prosecution of its citizens in the United States. Second, the United States had made extensive efforts to encourage improvement of Salvadoran law enforcement agencies, including the creation of the Salvadoran Special Investigative Unit (SIU), an independent law enforcement unit modeled on the FBI. Taking the matter away from the Salvadorans would have been seen as contrary to these efforts. Third, the United States tried to encourage the Salvadorans to improve their judicial system and to use it to prosecute military defendants for human rights violations as well as to prosecute terrorists. This was consistent with the United States government's policy of encouraging countries to prosecute terrorists locally rather than to rely on the United States to police the world.

Several witnesses stated to us that it would have been seen as hypocritical to push the Salvadoran system to function better and then to remove a case from its jurisdiction merely because the victims were United States citizens. In addition, despite the strong presence of the United States in El Salvador--including military advisors and an active CIA Station--the sovereignty of El Salvador was considered an important factor in allowing it to take a strong response to the murders. The United States Ambassador in El Salvador in 1987, Ambassador Edwin G. Corr, made clear to DOJ and others that he felt strongly that the United States should not embarrass the Salvadorans in a public

⁴ The murders occurred before the enactment of the terrorism statute, 18 U.S.C. § 2331, in 1986 which gave the United States jurisdiction to prosecute terrorism that affected United States citizens abroad.

way by seeking to take away the Zona Rosa cases, thereby giving a vote of "no confidence" to the Salvadoran judicial system.

Consistent with this consensus, the FBI was willing to assist the Salvadorans in their investigative efforts and, as a back-up, to participate in any future prosecutive efforts in the United States. However, it was understood that the FBI would not be conducting its own investigation. On June 26, 1985, a meeting was held in Washington at the request of President Reagan to discuss the appropriate United States response to the murders. Present at the meeting were representatives of the CIA, DOS, DOJ, and FBI. According to a Memorandum for the Record written by the CIA, all agreed that a "Joint PRTC⁵ Task Force" would lead the efforts to gather information about the murders. The task force was to be run out of the CIA Station in El Salvador and was composed of Salvadoran military and CIA personnel. During a discussion of the handling of the technical and forensic evidence collected in connection with the case, it was decided that the Salvadoran SIU should manage the evidence, with United States support. The FBI made clear at the meeting that the FBI agent detailed to train the SIU was not going to conduct the investigation, but rather assist the Salvadorans, because the FBI did not want to create false hopes that it would be handling the case.

In addition, the FBI offered assistance to the DOS Office of the Inspector General, which initiated its own review to determine if the security arrangements that had been in place to protect United States government officials in El Salvador were followed and whether new precautions were required. The FBI informed the head of this DOS investigation that FBI technical assistance was available to him. The DOS investigators performing the review called upon the FBI to aid the Salvadorans with analysis of the forensic evidence that was recovered.

On June 25, 1985, FBI Headquarters sent a teletype to the FBI's Legat in Panama (which covered El Salvador) and the FBI's WMFO outlining the facts surrounding the Zona Rosa murders. The FBI pointed out that "if the unknown

⁵ The PRTC was one of the five major factions of the FMLN, a Marxist-Leninist guerrilla group in El Salvador.

assailants are eventually identified, apprehended, and subsequently released to United States authorities for prosecutive action," charges could be brought against them in the United States. FBI Headquarters directed the Panama Legat to obtain all Salvadoran reports on the murders in order to be prepared for such a situation in the future.

C. The Salvadoran Investigation

Immediately after the Zona Rosa murders, Salvadoran President Duarte convened a committee, including the Salvadoran Vice President and the Defense and Security Ministers, to oversee the Salvadoran criminal investigation into the murders. The Salvadoran SIU was charged with assisting the Salvadoran military--and more specifically its National Guard--and the Salvadoran National Police in identifying the murderers.

The Salvadoran SIU was intended to be a "clean" law enforcement body, untainted by any corruption that affected the Salvadoran military or civilian police. In the several years before the Zona Rosa murders, an FBI agent had been assigned, together with a DOJ attorney, to work with the SIU in teaching it basic investigative techniques. United States law enforcement officials also periodically went to El Salvador to train the SIU in proper law enforcement techniques, and SIU investigators occasionally came to the United States to receive further training.

The Salvadoran authorities--the National Police and National Guard, assisted by the SIU--conducted an extensive investigation into the murders, leading to the prosecution in El Salvador of one of the gunmen and several of the supporters of the attack. We next describe information that was developed by the Salvadoran authorities in its investigation and that was shared with DOJ when it began its own prosecutive efforts in 1987.

1. The Salvadoran Forensic and Crime Scene Investigation

The Salvadoran National Police arrived at the crime scene on June 19 ten to twenty minutes after the murders. We were informed that they did not get there sooner because some of the police did not have cars and had to take

public transportation to the scene. Members of the technical section of the Salvadoran National Police, which was in charge of processing the scene, found eight bodies when they first arrived. The bodies of the four Marines had already been taken to the emergency room of a hospital.

Even after the police arrived, they failed to adequately preserve the crime scene. By the time the technical section of the police attempted to process the crime scene, civilians were milling throughout the area. According to a DOS Diplomatic Security report that was supplied to the FBI, the Salvadoran police tried to follow leads immediately after the murders, but witnesses had already left the scene and cars had been moved. As a result, many witnesses were not identified and the crime scene was "rendered almost useless because almost everything was moved, shifted, or taken." The DOS report confirmed that the crime scene area was not secured because of the late arrival of the police. Many civilians at the scene picked up spent rounds and shell casings, taking them as souvenirs. Bullet holes in the shops were quickly plastered over by shopkeepers. Because of these actions, no final determination was made as to the number of rounds fired, the positions from which the attackers fired, how many persons fired, or the types of weapons used.⁶

The four slain Marines--Gregory O. Weber, Patrick Kwiatowski, Thomas T. Handwork, and Bobby J. Dickson--were taken on June 19 to the "Hospital de Diagnostico y Emergencia" in San Salvador. A Salvadoran Medical Examiner examined the bodies of the four Marines at 11:40 p.m. The Medical Examiner determined the cause of their death to be hemorrhagic shock. The Medical Examiner found that the body of Dickson had 18 entry wounds; Weber's had 10 entry wounds; Kwiatowski's had 3; and Handwork's had 10. However, no autopsies were performed on the bodies. According to a letter from the Marine Corps Personal Affairs Branch dated September 30, 1985, the Salvadorans did not perform any autopsies because the cause of death was known: cardiorespiratory arrest due to multiple bullet perforations.

* The Salvadorans later attempted to reconstruct the crime scene and determine the location of the bodies and the trajectories of the shots.

The Salvadoran National Police laboratory performed chemical analysis on the slain Marines' clothing. Gun powder was found to be present on some of the clothing. According to the police report, this suggested that the Marines were shot at very close range, likely a distance of less than 15 centimeters.

The Salvadoran police conducted ballistic tests on five 5.56 mm casings found at the scene. The tests showed that four different types of firearms using 5.56 mm bullets were employed by the assassins. Tests of nine 9 mm casings found at the scene showed that two different types of 9 mm weapons were used. Attempts were also made to compare casings found at the scene of the crime with shell casings found in the vicinity of "la Esperanza Penitentiary," a Salvadoran prison that had been attacked by guerrillas early in 1985. The bullets were determined to be similar, but they could not be matched because the police laboratory did not have a microscope powerful enough to enlarge fine characteristics. It does not appear from FBI records that the FBI was ever asked to assist with the examination of the bullets.

According to the DOS Diplomatic Security report, four 9 mm rounds were removed from the bodies of Marines Handwork, Dickson, and Weber. Two 9 mm rounds were also removed from the body of United States citizen Robert Alvidrez, a businessman who had been killed while sitting at the sidewalk cafe. Salvadoran National Police lab technicians found that the rounds removed from Handwork and Weber were fired by the same weapon.

On June 20, 1985, the Salvadoran police recovered an abandoned white Toyota pickup truck with red stripes on the sides in San Salvador. The truck had bullet holes in the right fender, blood stains on the floor, and a briefcase containing a hand grenade inside the truck. Some M-16 and .38 bullet casings were also found on the seat and floor. The license plate of the vehicle was traced to [REDACTED], a sales manager for an unknown company. [REDACTED] reported to the police that he had stopped at a gas station on June 19 at about 5 p.m., when he was accosted at gun point by two young men. They stole his truck and drove away. On June 20, 1985, a co-worker of [REDACTED] found his truck abandoned and reported it to the police. The police obtained fingerprints from the abandoned vehicle, most of which matched those of [REDACTED].

Tests were conducted on the spots found on the clothing of the Marines and a spot in the abandoned Toyota pickup truck. The spots were determined to be blood, but no "type, differentiation and accuracy tests" were conducted, because the Salvadoran police laboratory did not have the necessary equipment. It does not appear from FBI records that the FBI was asked to assist the Salvadorans in these examinations.

One of the gunmen in the attack, Jose Roberto Salazar Mendoza (Salazar), also known as *Julio*, was killed while in the line of fire of another gunman. The attackers took *Julio* with them as they fled the scene and left him at the Red Cross. He was then taken to a hospital. The police located the hospital where his body had been taken, but by the time the police arrived at the hospital, his body had already been buried. The police had the body exhumed for examination. Traces of gun powder were found on the backs of his hands. It was later determined that the blood found in the abandoned pickup truck matched *Julio's* blood type. According to the DOS Diplomatic Security Report, a 9 mm round was removed from Salazar's body, but this bullet was later lost.

On June 21, 1985, a fourteen-year-old boy found two identical notes in envelopes in a public telephone booth in front of a radio station in San Salvador. One of the notes was turned over to the police and the other was kept by the telephone company. The note turned over to the police was entitled "Communique of the Politico-Military Committee of the Urban Guerrilla Commandos 'Mardoqueo Cruz' of the FMLN." In it, the Mardoqueo Cruz claimed responsibility for the killings of the Marines in the Zona Rosa attacks.⁷ The note stated, in part:

We inform: (1) That our Commandos claim responsibility for the execution of the politico-military operation: "YANKEE AGGRESSOR IN EL SALVADOR, ANOTHER VIETNAM IS IN STORE FOR YOU," which consisted of an annihilation attack

⁷ The Mardoqueo Cruz was the urban commando section of the PRTC. The PRTC was one of the five major factions of the FMLN, a Marxist-Leninist guerrilla group in El Salvador.

against American military advisors, CIA agents, and elements from other nations connected to intelligence agencies in the service of American imperialism that were in the Zona Rosa, Colonia San Benito, in the Chili's restaurant.

* * * * *

We make an appeal to the American public opinion to increase their efforts and actively oppose the warlike administration of Ronald Reagan to prevent him from embarking in yet another military adventure that would bring more pain and suffering to the American people.

According to the DOS Diplomatic Security report, no one processed either of the PRTC letters for latent fingerprints, and no one recovered the second original of the letter from the Salvadoran telephone company.

The DOS Diplomatic Security Report stated that on June 28, 1985, DOS Diplomatic Security Agent Victor DeWindt was given a clear plastic bag containing eight M-16 shell casings and one spent bullet. It is unclear from the report where this material came from and who gave it to DeWindt. This material was forwarded to the FBI for examination. The DOS report also stated that the police had recovered 20 rounds from the attack site. DeWindt reported that: "Most of the rounds were left in the bodies. However, some of the rounds were removed and forwarded to the police technical laboratories for study and analysis." It is not clear whether any of these bullets were removed from the bodies of the Marines.

2. The Salvadoran Interviews of Witnesses

██████████ was ██████████ in the Zona Rosa on the night of June 19. On July 10, 1985, he was interviewed by the Salvadoran National Police about what he had witnessed. ██████████ said he first saw the guerrillas drive up to the cafe in a pickup truck. ██████████ believed that a second car was also travelling with the pickup truck. He said that several individuals dressed in camouflage gear got out of the truck, lined up in front of

the Marines, and opened fire at them. After the gunmen fired at the Marines, they fired into the crowd in the cafe and towards the Brazilian Embassy across the street.

During the attack, [REDACTED] was shot twice in the legs and fell to the ground. While he was lying on the ground, one of the gunmen approached him and took a .45 caliber pistol that [REDACTED] kept in his belt. The gunmen then retreated into the pickup truck and drove away. [REDACTED] also stated that, before the guerrillas drove up, a man came into the bar acting strangely. The man hung around the bar, then made a telephone call and left just before the guerrillas arrived. [REDACTED] stated that he believed that the man had been a scout for the guerrillas.

Salvadoran police also interviewed [REDACTED], another [REDACTED] eyewitness to the attack. Despite the belief of Salvadoran police that [REDACTED] could identify the assailants, he insisted that he was not able to identify anyone.

Salvadoran police interviewed numerous other witnesses to the attack. These witnesses saw a pickup truck with guerrillas drive to the cafe, and saw several people climb out of the truck and begin firing at the Marines. None of these witnesses were able to identify any of the attackers. Most had seen very little because the shooting surprised them, and they had immediately sought cover. The few who saw the attackers were not able to describe them in any detail. None of these witnesses appear to have been asked to view any lineup of potential suspects.

Salvadoran police interviewed [REDACTED], a Salvadoran citizen who worked for Taca Airlines and flew frequently to the United States. [REDACTED] reported to police that on June 19, 1985, at approximately 5 p.m., her truck had been stolen from her by two unknown men carrying guns. [REDACTED] believed the men to be guerrillas. [REDACTED] provided full descriptions of both men, but the Salvadoran police were unable to compile composite drawings from her descriptions. The truck was later recovered by the police and held in connection with the killings. DOJ has no information as

to where or when the truck was recovered or whether it was processed for evidence. It does not appear, however, that [REDACTED] truck was used in the attack.

From these witnesses, the Salvadoran police concluded that there were about twenty individuals involved in carrying out the massacre and that they arrived at the scene in two pickup trucks—one red and one white. Four of the guerrillas shot at the Marines, while others provided cover. After they had fired at the Marines and into the crowd, the gunmen jumped back into the pickup trucks, returning briefly to grab their injured comrade *Julio*. The guerrillas drove away and dropped *Julio* at the Red Cross.

Based on the witnesses' statements, the Salvadoran National Police composed artist sketches, or "identikits," of the suspect who had stolen [REDACTED] white pickup truck, five of the suspects at the scene of the crime, and the suspect that [REDACTED] believed to have been checking the cafe before the shooting. These sketches were published in Salvadoran newspapers.

D. FBI Assistance to the Salvadoran Investigation

1. FBI Investigative Steps

As discussed above, the FBI offered to provide any technical assistance or other support requested by the Salvadorans.

In July 1985, at the request of DOS, the FBI interviewed [REDACTED], a pilot for Taca Airlines. DOS had learned that Andrews had a bullet from the attack at his home in New Orleans. [REDACTED] stated that he witnessed the shootings as he was riding by the cafe in a Taca Airlines van. [REDACTED] recovered a bullet that hit the van and came to rest on the van floor. [REDACTED] kept the bullet as a souvenir. [REDACTED] turned the bullet over to the FBI, and it was forwarded to the FBI laboratory.

The FBI also received information from an assistant to United States Senator Jeremiah Denton that [REDACTED] might be able to identify the people who had stolen her pickup, even though she had told

Salvadoran authorities that she could not. The FBI therefore interviewed [REDACTED] when she was in New Orleans on July 1, 1985. [REDACTED] gave the FBI the same information that she had given the Salvadorans. She added that she was concerned for her safety and also worried that the authorities might not believe that her truck had been stolen and would think she was collaborating with the guerrillas. When [REDACTED] returned to El Salvador after the interview, she complained to Salvadoran authorities about the FBI interview. As a result, President Duarte raised the matter with the United States Embassy, and the Embassy asked the FBI not to interview any Salvadoran citizens without prior coordination with the Embassy and Salvadoran authorities.

On July 18, 1985, FBI Headquarters directed the FBI's Houston field office to track down leads the FBI had received from the CIA regarding an individual named Roberto Ernesto Sanchez Marroquin (Marroquin). The CIA had reported [REDACTED]

[REDACTED] Marroquin was involved in the Zona Rosa killings. Marroquin was believed to be in the Houston area. On July 30, 1985, after Marroquin was arrested by INS as an illegal alien, the FBI interviewed him. He admitted that he was a member of the PRTC but denied participation in the Zona Rosa killings. The FBI gave Marroquin a polygraph about his denial of involvement in the Zona Rosa murders, which he passed. Checks by the FBI revealed that Marroquin had been in the United States at the time of the killings. On August 23, 1985, because of his illegal immigration status, Marroquin was deported to El Salvador.

2. FBI Laboratory Assistance

The FBI agreed to provide laboratory support to the Salvadorans because of the inadequacy of the Salvadoran equipment and the lack of training in certain techniques and analytic methods. On August 14, 1985, the FBI Panama Legat forwarded a request by the Commander of the Salvadoran Special Investigative Unit to FBI Headquarters for FBI forensic laboratory assistance. The Legat had received this request several days earlier when he was in El Salvador. The FBI was asked to supervise forensic examinations by the Salvadoran National Police in El Salvador and provide the necessary equipment to the Salvadorans. Officials of the FBI Laboratory Division strongly

recommended that the forensic evidence be sent to them in Washington so that they could conduct a thorough and complete examination. Tests with significant results could then be repeated in El Salvador, in collaboration with the appropriate Salvadoran technical personnel, to meet the requirements of the Salvadoran judicial system. The Salvadorans agreed to this procedure.

In addition, the FBI Identification Division made two fingerprint specialists available to travel to El Salvador, although there is no record in FBI files that they went. A bullet removed from the right wrist of United States Marine Gregory Weber was submitted to the FBI laboratory for evaluation. It was examined microscopically for a determination of what type of weapon had fired it and held for future comparison. DOS also submitted two bullets and eight cartridge cases to the FBI laboratory for examination. The source of these items was not relayed to the FBI. The FBI determined that the bullets were fired by the same firearm, either a Colt Ar-15, an M-16, or an Armalite AR-180. The New Orleans FBI field office also forwarded the bullet retrieved from witness [REDACTED] to the FBI Laboratory in Washington. The bullet was examined and retained for future comparison with a recovered weapon. The laboratory found that the bullet's markings were of limited value for comparison. The laboratory found that the bullet was consistent with one fired from a .357 or .38 caliber revolver. It is unclear why the Salvadorans did not submit other forensic evidence, such as the blood and fingerprints, to the FBI for analysis.

E. The Break in the Case--the Arrest of Garcia

On August 4, 1985, the United States Border Patrol in San Diego, California, arrested Juan Miguel Garcia Melendez (Garcia) during a routine sensor check for illegal aliens. On August 6, 1985, Garcia told a Border Patrol agent that he had information about the Zona Rosa murders. The Border Patrol conducted an extensive interview of Garcia about the Zona Rosa murders and notified the FBI about the information it learned. On August 7, Garcia was again extensively interviewed by the FBI, the Border Patrol, and a Naval Investigative Service agent.

Garcia reported that he had been employed in an upholstery shop in San Salvador along with William Celio Rivas Bolanos (Rivas). On the afternoon of June 19, while in the upholstery shop, Garcia overheard Rivas talking with a person known as *Ulises*. Garcia said that he knew *Ulises* because he came around the upholstery shop frequently to meet with Rivas. On June 19, Rivas and *Ulises* began drinking alcohol at the shop at 4 p.m. and were intoxicated by 6 p.m. The two attempted to persuade Garcia to come with them because they had "some work for him." They would not give Garcia any further information, except to say "by the Cafe Don Pedro." Garcia was tired and went home instead. About 9:30 p.m., he heard a radio broadcast about the murder of the United States Marines in the Zona Rosa district.

Garcia said that he went to work at the upholstery shop the next morning. Rivas came to the upholstery shop, followed by *Ulises*, who had a newspaper containing a report of the murders. Garcia overheard *Ulises* ask Rivas who had shot *Julio*. Rivas replied that he did not know because he had not heard any shots. *Ulises* stated that their group was now reduced to three members and they needed four to function. Garcia stated that he determined from the conversations he overheard that *Ulises* was the leader of a four man "cell" of the PRTC consisting of Rivas, *Macias* (also known as *Felipe*), and two other unidentified members. A man known as *Walter* led another cell. *Mario* commanded the leaders of several cells or groups. *Ulises* told Garcia about a total membership of approximately 15 people in the organization he believed to be the Mardoqueo Cruz Urban Commandos.

During his interview with the Border Patrol, Garcia asked about the \$100,000 reward being offered by the United States government for information leading to the prosecution of the Zona Rosa killers. No promises or specific information about the reward money were given to Garcia, but he was told that the investigating agencies would be advised of his inquiry.

The information obtained from Garcia was passed to the CIA Station in El Salvador, which forwarded it to Salvadoran authorities.

On August 16, 1985, Garcia was voluntarily deported from the United States to El Salvador, where he was arrested at the San Salvadoran airport by the Salvadoran Treasury Police.

F. The Arrest of William Celio Rivas-Bolanos and Jose Abraham Dimas Aguilar

On August 12, 1985, acting on the information provided by Garcia, the Salvadoran National Guard raided the upholstery shop at which he worked, "Tapiceria Estrella." In the raid, the National Guard captured Rivas. Also arrested was David Wilber Villalta Ruano, another worker in the upholstery shop. No weapons or documents were found at the time of their arrest. *Ulises* eluded capture. The Salvadoran police believed that *Ulises* was in the upholstery shop at the time of the raid but fled out the back door when the Salvadoran police failed to block that exit.

1. Statements to Salvadoran Authorities

At the time of these arrests, El Salvador had declared itself under a state of siege as a result of the guerrilla war being waged. Under Salvadoran law, the investigation and prosecution of all cases involving guerrillas or terrorist activities were to be handled by the military and processed in military courts. Salvadoran law also provided that suspects could be detained incommunicado for a period of 15 days, during which time the military was entitled to investigate the offense. During this period, interviews and analysis of forensic evidence would be conducted and, at the conclusion of the fifteen days, turned over to the military court for determination of whether probable cause existed to try the prisoner.

(a) The Confession of Rivas

After Rivas' arrest, he was taken to National Guard Headquarters. The officers of the G-2 Section of the National Guard began to interrogate him 45 minutes after he arrived. Officers of the G-2 Section were trained in intelligence work and, according to a DOJ prosecutor who later investigated the Zona Rosa murders, "not versed in law enforcement investigatory techniques as

we know them." The interrogation was conducted without any formal advice of rights. The focus of the interrogation was on locating *Ulises* and other terrorists identified by Garcia.

Rivas told the G-2 interrogators that *Ulises* could be found at a garage on the west side of San Salvador. An arrest team went to the garage and arrested the brother of *Ulises*, Jose Abraham Dimas Aguilar. Another suspect known as "Macias" escaped just ahead of the arrest team.

The initial interrogation of Rivas lasted about three hours in a cell at the National Guard. Questioning resumed later and lasted until 2 a.m. the next morning. Over the next four days, two military interrogators interrogated Rivas. Rivas was permitted to eat and use a bathroom as he wished. According to a DOJ prosecutor, however, sleep deprivation was probably used as a technique, and the interrogation generally lasted about 14 hours a day. The interrogators reported that they recorded their questions and Rivas' answers, but DOJ prosecutors were never able to obtain such records.

Because of concern for human rights violations, Salvadoran law provided that representatives of the International Red Cross were allowed to see prisoners during the 15-day period of incommunicado incarceration. Red Cross representatives were allowed to see Rivas on an unknown date during his first 15 days in prison, but they did not interview him.

During the four days of interrogation, Rivas admitted his past involvement with the FMLN and detailed terrorist acts committed by him and others. However, he continued to assert that he was not involved in the Zona Rosa killings.

On August 17, 1985, the fifth day of the interrogation, the National Guard interrogators confronted Rivas with the fact of Garcia's arrest and his statements to them. Rivas then gradually began to acknowledge his involvement in the Zona Rosa murders. Finally, on August 17, after a prolonged interrogation, Rivas confessed to firing on the Marines. Rivas also stated that Garcia was a sympathizer with the PRTC and acted as a front at the upholstery shop but was not personally involved in the murders.

On August 20, 1985, the lead Salvadoran investigator, or "Instructor," took a formal signed statement under oath from Rivas. Under Salvadoran law, such a statement may be taken any time within the first 15 days of the prisoner's detention. Present at the formal statement was a secretary appointed by the Instructor to record the statement. Two National Guard officers, neither of whom was directly involved in the Zona Rosa investigation or the interrogation, were also present. At the beginning of this statement, Rivas was advised of his rights under Salvadoran law. He was advised that he was considered innocent until proven guilty; he was not obligated to testify; he could not be coerced into a statement; and he was entitled to indemnity if the charges were found to be false. In a military investigation such as this, Rivas was not entitled to an attorney.

Rivas' signed statement included his description of his history with the guerrilla movement, beginning with his recruitment in 1981 through his establishment of the upholstery shop as a cover for terrorist activities. The statement then provided the following version of events surrounding the Zona Rosa killings.

Around June 14, 1985, *Ulises* told Rivas that they were going to "knock over some Americans" within the next several days. On June 19, 1985, *Ulises* confirmed that they were going to carry out the planned attack and that they should meet at the garage of *Ulises*' brother that afternoon. At 5 p.m., Rivas, *Ulises*, and another PRTC member called "Macias" met at the garage. *Ulises* told them that they should meet again at the Cafe Don Pedro at 8 p.m.

Rivas went to the Cafe Don Pedro that evening. At 8:50 p.m., *Ulises* arrived in a yellow Toyota pickup truck with *Macias*, *Julio*, *Pepe*, *Walter*, and two other men Rivas did not know. *Ulises* gave Rivas an M-16 rifle, a green knapsack containing ammunition, a cap, and a green camouflage shirt. *Ulises* told Rivas that he was part of the strike team and should fire his weapon when they arrived at their destination. Upon arriving at the monument of the Savior of the World, they met a light blue car that signalled to them by honking twice. The Toyota truck signalled back. Both continued on to the Zona Rosa.

When they arrived in front of Chili's Restaurant in Zona Rosa, *Ulises* got out of the truck and started firing at one table. *Julio* did likewise and yelled "There, Buddy," indicating that Rivas should concentrate his fire on the table where the Americans were sitting. Rivas opened fire on the table, shooting all the ammunition from his weapon. Rivas also accidentally shot *Julio* in the back when *Julio* crossed into Rivas' line of fire.

Walter and an unknown man were shooting their weapons in the direction of security officers at the Brazilian Embassy in order to keep them distracted. *Pepe* and the driver of the Toyota were covering the north side of the cafe. When *Ulises* thought that they had killed the foreigners, he shouted "Retreat," and they went back to the pickup truck. When they reached the truck, *Ulises* asked, "Where's *Julio*?" and realized that *Julio* was lying wounded in the gutter in front of the cafe. *Ulises* went back, picked up *Julio*, and carried him to the truck, and they drove away. After they had driven some distance, *Ulises* ordered Rivas out of the truck. Rivas left all of the equipment and clothing *Ulises* had given him in the truck. Rivas then went home.

Rivas went to work at the upholstery shop the next morning so that he would not arouse suspicion. *Ulises* also came to the shop that morning and asked Rivas why he had injured *Julio*. *Ulises* told Rivas that *Julio* was receiving treatment at the Red Cross. Because Rivas was afraid of *Ulises*, he said that he had not shot *Julio* and did not know who had.

Rivas reported in this statement that Jose Abraham Dimas Aguilar, the brother of *Ulises*, was aware of the plans for the attack and knew about discussions about it both before and after the attack. After the attack, *Ulises* ordered the cell to remain inactive for two months to avoid detection or apprehension.

On August 23, 1985, Rivas was taken to the scene of the Zona Rosa murders to re-enact the attack for the police. According to an FBI report, Rivas "displayed an intimate knowledge of the crime scene and the manner of the killings."

On August 24, 1985, Rivas was polygraphed by the CIA Station in El Salvador. Before beginning the actual polygraph, the CIA polygrapher conducted a "pre-test interview" during which Rivas admitted his involvement in the murders.

The polygraph confirmed that Rivas was being truthful about his involvement in the killings, but indicated that he was not being completely truthful when he denied that Garcia was involved in the killings. There was also an indication of deception when Rivas denied that he had deliberately given false information regarding which persons took part in the Zona Rosa attack and when he denied deliberately withholding information about the Zona Rosa attack. The polygrapher found that Rivas had an "indifferent attitude" throughout the polygraph and interview and appeared ready to accept the consequences of his actions.

A report describing Rivas' case was turned over to the military judge on August 28, 1985. Witnesses to the crime also appeared before the judge so that the judge could determine whether the statements in the report were true. Rivas was not present at this hearing. The two National Guard interrogators who had taken Rivas' written confession testified about the confession and stated that Rivas gave his statement without coercion.

On August 29, 1985, Rivas gave a statement to the judge. The judge and three Salvadoran prosecutors were present at the hearing, which was conducted at the National Guard Headquarters because of security concerns. The judge advised Rivas of his rights and made a tape recording of Rivas' statement. In the statement, Rivas again confessed to shooting the Marines. At the conclusion of the proceedings, the judge had the tape transcribed for Rivas' signature.¹ The judge found probable cause to try Rivas, and the case was elevated to the trial stage. - -

¹ The tape and transcription were never obtained or located by DOJ.

(b) The Statement of Garcia

On August 23, 1985, Garcia allegedly made a statement to Salvadoran authorities in which he confessed to actual participation in the killings. Because Rivas had not implicated Garcia and because Garcia had not previously admitted participation, the National Guard separately took both men to the scene of the crime on August 23, 1985. As noted above, while Rivas demonstrated an intimate knowledge of the crime scene, Garcia was unable to provide any information as to how the attack occurred, and it seemed to the police as if he had never been at the crime scene. Garcia was questioned further and recanted his confession, saying that he had admitted to participation in the murders because of his fear of the police.

Later on August 23, 1985, Garcia signed a written statement which contained the following information.

Garcia said that he met Rivas while working in an upholstery shop in November 1983. Garcia discussed with Rivas past propaganda efforts in which Garcia had participated on behalf of the "revolutionary party." Rivas told Garcia that such efforts were out of style and that direct military action was required. In August 1984, Rivas proposed that they set up another upholstery shop with money provided by a "terrorist organization." Rivas told Garcia that he would ask "Charli" for the money, who would ask *Mario*. *Ulises* would pose as the owner. Garcia would get to split the profits from the shop's work. Garcia agreed, and the shop was opened in October 1984.

Garcia provided information on the type of surveillance and other information-gathering activities in which he allegedly participated while working at the upholstery shop. For example, Garcia reported that Rivas used the shop to observe the movement of National Police vehicles, which the group could subsequently attack.

Garcia stated that several days before the Zona Rosa murders, he learned there was going to be some action taken against "the Americans." On the day of the attack, Rivas told Garcia that the operation was to be carried out that day and said Garcia would hear about it on the radio that night. Garcia said he

heard about the attack when he was listening to a soccer game on the radio. The next day *Ulises* came to the upholstery shop and explained how they had shot the Americans. Rivas interrupted to say that Macias had yelled "Long live Mardoqueo Cruz" during the attack. Rivas stated that the Brazilian Embassy guards had shot *Julio*. When Rivas left, *Ulises* told Garcia that Rivas had shot *Julio* but that *Ulises* was not going to say anything in order to avoid an argument. *Ulises* told Garcia that *Pepe* had been in charge of shooting at the Brazilian Embassy officers and that *Julio*, *Macias*, Rivas, and *Ulises* had fired on the Americans.

On October 3, 1986, Garcia filed a motion seeking his release. The motion argued that he had been forced to make a statement to the police in violation of his right to remain silent. This motion was denied, and he remained in custody.

(c) The Statement of Jose Abraham Dimas Aguilar

On August 20, 1985, Jose Abraham Dimas Aguilar (Dimas) signed a written statement in the presence of the Salvadoran National Guard. In it, Dimas admitted to knowing that his brother *Ulises*, together with *William*, *Miguel*, *Macias*, and *Tiamina*, met at Dimas' garage and that Dimas was aware they were members of a terrorist organization. Dimas was also aware that they were planning something, which he later deduced was the Zona Rosa attack. Dimas' statement also said, without explanation, that he later learned that all of the people mentioned in his statement were directly involved in the attack. Dimas' statement concluded that he "collaborated with the organization in the sense that he sheltered them in the garage and that *Ulises* was his partner."

On August 28, 1985, Dimas' statement was presented to the military court, and the next day he affirmed to the court that it was true.

(d) The Press Conference

On August 30, 1985, during a press conference in San Salvador arranged by President Duarte, Rivas admitted his participation as a shooter in the Zona Rosa attack. Dimas and Garcia both stated that they were members of the

PRTC and had served in support roles in the attack, but they denied having participated directly in the killings.

(e) The Statement of David Wilber Villalta Ruano

On August 20, 1985, the National Guard interviewed David Wilber Villalta Ruano (Ruano), who had been arrested in the upholstery shop with Dimas and Rivas. Ruano stated that he met Rivas through Garcia and that he performed upholstery jobs for Rivas. On June 21, Ruano began work on an upholstery job for Rivas. While Ruano was working on this job in the upholstery shop, a man named *Ulises* came every day to read the paper and talk to Rivas in private. Ruano suspected that the two were involved in something bad because of the way they talked. Ruano told the National Guard that he did not know anything about the attack on the Marines aside from what he had read in the papers. Ruano viewed lineups that included Garcia and Rivas, and was able to identify both of them. He was later released from custody.

2. The Eyewitness Identification of Rivas

On August 24, 1985, [REDACTED] who was shot in the attack, was asked to view lineups at the Salvadoran National Guard headquarters. One lineup had five suspects, including Rivas. [REDACTED] viewed the suspects and asked that they wear black berets, because the gunman he saw on June 19 had been wearing such a beret. All five suspects were given black berets, and [REDACTED] identified Rivas as the man who fired at the Marines on June 19. [REDACTED] was not able to identify Dimas, Garcia, or Ruano in similar lineups.

[REDACTED] in the cafe, also viewed lineups containing Rivas, Garcia, Dimas, and Ruano. [REDACTED] was not able to identify any of these four men as the gunmen he saw on June 19th.

3. Salvadoran Charges against Rivas, Garcia, and Dimas

At the conclusion of the hearing before the military trial court, the judge certified an indictment charging the three defendants as follows:

Rivas:	Subversive Association, Acts of Terrorism, First Degree Robbery (Auto)
Garcia:	Subversive Association, Aiding and Abetting Subversive Propaganda, Acts of Terrorism
Dimas:	Subversive Association

4. Salvadoran Theory of the Murders

As a result of its investigation, the Salvadoran National Police and National Guard reached several conclusions. The police concluded that the probable planner of the attack and leader of the "cover group"—the group that shot at the Brazilian embassy and watched for any defensive fire—was *Mario Gonzales*. The police believed that at the time of the attack *Mario Gonzales* was a member of the PRTC Central Committee and was in charge of the Mardoqueo Cruz, a small cell of the PRTC that was focussed on guerrilla activities within San Salvador. The National Police and National Guard also thought *Mario Gonzales* was responsible for other urban terrorist attacks carried out by the Mardoqueo Cruz.

The police also believed that Garcia and Dimas were members of this "cover group." The police concluded that Jose Antonio Lemus Figueroa (also known as *Walter*), *Pepe*, and two other unknown men were members of the "security and containment group," the group assigned to provide protection to the shooters. The police believed *Walter* to be a cell leader in the Mardoqueo Cruz. Police believed that Lemus and *Pepe* were also involved in an attack against National Police personnel in February 1985.

The police thought that the "annihilation squad"—the actual shooters—was made up of Ismael Dimas Aguilar, also known as *Ulises*, Jose Roberto Salazar

Mendoza, also known as *Julio*, Jose Antonio Bolanos Rivas, also known as *Macias*, and William Celio Rivas Bolanos. Police believed that *Ulises* was a cell leader in the Mardoqueo Cruz and had been trained in Cuba from May 1981 to December 1982, and in Nicaragua from August to December 1983. *Ulises*, *Julio*, and Rivas were all thought to have been involved in various acts of terrorism and sabotage in El Salvador for several years before the Zona Rosa attack.

As noted above, *Julio* was killed in the Zona Rosa attack when he crossed into the line of fire of Rivas. The two other alleged gunmen, *Ulises* and *Macias*, were never apprehended. Salvadoran authorities learned from four different sources that *Ulises* was killed at the Guazapa volcano in a battle with Salvadoran armed forces.

After the initial charges were lodged against Rivas, Garcia, and Dimas, their cases languished for some time. In 1987, DOS learned that, as part of the Central American peace process, the Salvadoran government was considering an amnesty for all prisoners accused of "political crimes," which potentially applied to the Zona Rosa perpetrators. An exception to the amnesty agreement was included for two other acts of terrorism against Americans in El Salvador--known as the Sheraton Murders and the Nun Murders--but no exception was made for the Zona Rosa case.

G. DOJ Opens an Investigation in 1987

1. Background

Aside from FBI assistance to the Salvadorans, DOJ was not asked to become involved in the investigation and prosecution of the Zona Rosa case until 1987. In November 1987, because of the possibility that the amnesty would free Rivas, DOS asked DOJ to pursue an indictment of him.

After receiving the DOS request, DOJ assigned the case to Mark Biros, an Assistant United States Attorney (AUSA) for the District of Columbia, and Dana Biehl, a prosecutor in DOJ's GLAAS. [Biehl later became a part of the newly created Terrorism and Violent Crime Section (TVCS) which took over

all terrorism matters.] According to Biehl, DOS informed DOJ that it felt strongly that the Salvadorans should prosecute the defendants if possible and that the United States should step in only if the Salvadorans granted amnesty to the defendants. Because DOS had attempted to improve the Salvadoran judicial system, DOS believed that it would be a "vote of no confidence" for DOJ to prosecute the Zona Rosa case in the United States.

DOJ agreed with DOS that the Salvadorans should retain the case and prosecute the Zona Rosa killers if possible. A Salvadoran prosecution avoided numerous problems, such as securing custody of the defendants in the United States, evidence admissibility problems with Rivas' confessions, and the potential argument that the Salvadorans were acting as "agents of the United States" in obtaining the confessions. (These issues will be discussed in detail in Section 6 below.) In addition, the Salvadorans would have a better chance of convicting them. Moreover, DOS and DOJ did not want the Salvadorans to assume that DOJ was going to prosecute the killers and that the Salvadorans should not continue their attempts.

However, if the Salvadorans intended to release Rivas pursuant to a general amnesty, the United States would seek his custody and attempt to prosecute him. DOJ believed that such a prosecution might result in an acquittal due to the limited evidence in the case but believed it was, as DOJ prosecutors stated in an internal memorandum seeking approval of a prosecution, "worth the undertaking rather than remaining idle while Rivas goes unpunished." Any United States prosecution was dependent on obtaining custody of the defendant, which was difficult because the Salvadoran constitution prohibits the extradition of Salvadoran nationals. As a result, unless the United States was going to conduct an "irregular rendition," "snatch," or lure the defendant from El Salvador—none of which was contemplated—El Salvador would have to agree voluntarily to hand over its citizen to the United States government. This would have been a highly controversial step in El Salvador. Therefore, although DOJ agreed to open an investigation, it was recognized that the likelihood that the case would ever be tried in the United States was small.

2. DOJ's Investigative Plan

On November 19, 1987, DOJ prosecutors and FBI agents met to develop an investigative plan in the Zona Rosa case. The FBI was asked to collect relevant evidence from United States and Salvadoran authorities related to the investigation of the murders. The FBI directed an agent from its Legat in Mexico City to travel to El Salvador and meet with Salvadoran law enforcement and intelligence agencies to obtain reports and evidence for review by the FBI and DOJ. DOJ and USAO attorneys planned to review the documents collected and then travel to El Salvador to locate and interview witnesses. Some of these witnesses would later be asked to come to the United States to testify before a federal grand jury.

A Mexico City FBI Assistant Legat travelled to El Salvador and found little useful physical evidence in the possession of the Salvadoran law enforcement or judicial authorities. Although bullets were recovered from the victims' bodies, no weapons were recovered with which to compare them. Latent prints were found on one of the vehicles used in the killings, but they did not match any of the captured perpetrators. The Assistant Legat reported the substance of the statements taken from the Zona Rosa defendants, which we described above, and the circumstances under which they were taken. FBI Headquarters also arranged for the translation of the Salvadoran documents and police reports that had been collected by the Mexico City Legat.

On December 8, 1987, the District of Columbia United States Attorney and the Salvadoran Minister of Justice and Attorney General met in Washington to discuss a possible United States prosecution of the Zona Rosa killers. The Salvadoran officials were cooperative, but there was no discussion of the details of the Salvadoran prosecution or whether the Salvadorans would make witnesses available for a potential prosecution in the United States. The problem of releasing any Salvadoran defendants to the United States was discussed at length. The Salvadoran officials stated that participation in any clandestine effort to release the defendants to the United States would have serious political drawbacks for them and that the Salvadoran government could not cooperate with an irregular transfer of the defendants. There was some discussion of having the suspects released on the other side of the Salvadoran

border, where they would be picked up by the United States, but that issue was never resolved.

3. DOJ's Analysis of the Case

AUSA Biros, the initial lead DOJ prosecutor on the case, told us that the case against Rivas was complicated by the fact that the CIA had interviewed him. Biros believed that the CIA would try to protect the identity of its agents and would not allow them to testify in court. Biros also said that in any United States prosecution of Rivas, the issue of the voluntariness of his confession would have been fully litigated by defense counsel. Even if the confession were not suppressed, Biros was concerned how a District of Columbia jury would respond to testimony about the manner in which Rivas was treated by the interrogators. Biros did not know what kind of evidence Rivas might produce regarding coercion, and Biros was concerned that prosecutors might not be able to rebut a claim of coercion without credible Salvadoran witnesses or the disclosure of classified information. Biros stated that the introduction of Rivas' confessions might end up putting on trial "the whole political situation in El Salvador."

On November 27, 1989, Biehl, Biros, FBI WMFO Special Agent [REDACTED], and Carlos Correa (an attorney with DOJ's Office of International Affairs who had previously been detailed to work on human rights cases in El Salvador) interviewed [REDACTED] in Washington. [REDACTED] a Venezuelan national, was the head of the Venezuelan Special Advisory Group to El Salvador and had participated in the Salvadoran investigation of the Zona Rosa murders in 1985. [REDACTED] first described the problems of preserving the crime scene. [REDACTED] also told the prosecutors that he believed that the planner of the Zona Rosa killings was a Salvadoran doctor who had been trained in Moscow and was "the number two man" in the Salvadoran Communist party. [REDACTED] stated that this doctor had been arrested in connection with the Zona Rosa killings but later released by the Salvadorans as part of an exchange to gain the release of President Duarte's daughter, who had been kidnapped by the guerrillas in August 1985. [REDACTED] could provide no further details on this individual. We found no evidence in the DOJ files about this doctor.

4. DOJ Trips to El Salvador and Witness Interviews

In January 1988, AUSA Biros left the District of Columbia USAO for private practice, and the Zona Rosa case was transferred to another AUSA in the D.C. USAO, J. Michael Hannon, Jr. Hannon, along with Biehl, Correa, and several FBI agents, made two trips to El Salvador in February and April 1988 to locate and interview witnesses. During these trips, they met with several United States Embassy officials and Salvadoran law enforcement officials.

Their efforts to gather evidence in El Salvador were initially met with some resistance by the United States Embassy personnel. The United States Ambassador and his political advisor were concerned that the Salvadoran government would perceive that an intense, direct effort by DOJ to gather evidence and prosecute the Zona-Rosa murderers in the United States was a sign that the United States did not feel the Salvadorans were doing an adequate job in its prosecutive efforts. However, after a meeting between the DOJ attorneys and the Ambassador, the Embassy cooperated with DOJ efforts to locate witnesses and obtain evidence.

(a) [REDACTED]

During their first trip to El Salvador, the DOJ attorneys located and interviewed [REDACTED], the eyewitness [REDACTED]. DOJ had requested that the FBI and the Salvadoran Special Investigative Unit find [REDACTED]. Biehl said because there was no FBI Legat assigned to El Salvador, and someone had to come from Panama or Mexico City to work on the case, the FBI was not able to follow up on all investigative requests made by the prosecutors. Therefore, DOJ Attorney Correa, who spoke fluent Spanish, went around San Salvador in a cab from address to address until he found [REDACTED].

[REDACTED] described for DOJ attorneys the lineup at the National Guard Headquarters in which he identified Rivas. [REDACTED] said he had observed about 38 men being brought to an area where he was positioned behind a large window. This group was reduced to about 17 men, from whom 6 were chosen to stand in a line before him. Before the six were selected, [REDACTED] recognized Rivas.

Rivas was included among the six in the lineup. After [REDACTED] asked for a beret to be placed on Rivas' head and a gun in his hands, [REDACTED] identified Rivas.

In a prosecutive memorandum, AUSA Hannon reported that [REDACTED] had a "photographic memory" of events on the night of the murder. Hannon wrote, "When reciting the events of that night, his eyes become vacant as he recreated the scene in his mind's eye. He recounts the events of that night with such detail and emotion that he will make a convincing witness despite the date of the offense." Biehl also reported that [REDACTED] had an almost photographic memory of the crime.

[REDACTED] told DOJ attorneys that [REDACTED] had also made a positive identification of Rivas from a lineup. The Salvadoran police files indicated, however, that [REDACTED] identification was negative. [REDACTED] could not be located during the DOJ trips to El Salvador. The FBI learned from interviews of [REDACTED] family that on an unknown date, a car [REDACTED] had been driving was found abandoned in an area of heavy FMLN activity. The FBI suspected that [REDACTED] was "disappeared" by the FMLN to keep him from testifying in the Zona Rosa case.

The DOJ attorneys requested through DOS that [REDACTED] be brought to the United States. DOJ wanted [REDACTED] to be present in the United States so that he would be available if the United States prosecution of Rivas went forward. According to DOJ attorneys, the request languished for some time, until DOS Legal Officer Rick Chidester arranged for [REDACTED] and his mother to come to the United States. INS granted [REDACTED] an indefinite parole into the United States as a material witness.

Chidester personally escorted [REDACTED] and his mother to Washington, D.C., in the spring of 1989. DOJ did not place [REDACTED] in the Witness Security Program, because it wanted [REDACTED] to become self-sufficient. The FBI helped [REDACTED] get a job as a waiter in the Adams-Morgan section of Washington, D.C., provided him financial support, and kept in frequent contact with him.

(b) Garcia

On February 17, 1988, during one of their trips to El Salvador, AUSA Hannon and an FBI agent interviewed Garcia in a Salvadoran prison. Hannon told Garcia that he did not believe that Garcia had been directly involved in the Zona Rosa murders, but that there was great concern over the conflicting statements he had given. Hannon also said he had the impression that Garcia had not told authorities all he knew. During this interview, Garcia denied telling Border Patrol authorities that he had knowledge of the Zona Rosa incident. Garcia insisted that the Border Patrol had shown him a picture of Rivas, and Garcia had simply told what he knew about Rivas from working with him in the upholstery shop. Garcia also denied he participated in the Zona Rosa attack. Although he denied overhearing any specific conversations between Rivas and *Ulises* about the attack, he admitted hearing them say they were going to "bowl over some gringos" several days prior to the attack. Garcia alleged that he had been beaten for a period of approximately six days by the Salvadoran police in an attempt to get him to admit responsibility for the Zona Rosa attack. Garcia stated that his mother and niece were also held by the police and that his mother was interrogated behind a two-way mirror while he watched. Garcia said this was the reason for his inconsistent statements and confession to Salvadoran authorities.

(c) Other Supporting Witnesses

DOJ attorneys also interviewed numerous Salvadoran officials and investigators about the Zona Rosa murders during their trips to El Salvador. The Salvadoran officials were cooperative and provided the attorneys with diagrams of the suspected structure of the Mardoqueo Cruz. DOJ attorneys also interviewed the witnesses to Rivas' signed statement before the military court. They claimed that Rivas gave the statement freely and without coercion after he was advised of his rights.

On February 17, 1988, the FBI interviewed Dimas, the brother of *Ulises*. Dimas stated that he had signed a statement written by the Salvadoran National Guard after his arrest, but he had not read the statement. He also stated that he was coerced to confess after three days of interrogation. Dimas reported that

when he was taken before a judge, he told the judge that his statement was involuntary and that he had been told what to say to the judge prior to the hearing.

DOJ attorneys attempted to interview other witnesses during their visit to El Salvador. After learning that Rivas had met with representatives from the Red Cross during his incarceration, unsuccessful attempts were made to locate and interview the Red Cross visitors about their contact with Rivas.

5. FBI Interviews of Witnesses

Between March 1988 and September 1988, the FBI interviewed numerous witnesses to the murders throughout the United States, including military and civilian witnesses who were eating at the Zona Rosa cafes at the time of the attack. None of these witnesses were able to identify the perpetrators of the attack. Many did not see anyone because they were running for cover. Those who saw the gunmen were not able to identify anyone when shown photographic spreads containing the photographs of Rivas and Garcia.

6. Problems with United States Prosecution of Rivas

As noted above, DOJ attorneys believed that the statute protecting "internationally protected persons," 18 U.S.C. § 1116, applied to the Zona Rosa murders. Although this was an issue of first impression, John DePue of DOJ's TVCS researched this issue and obtained documentation from DOS establishing that the Marines worked on the diplomatic side of the Embassy in El Salvador. DePue said his research showed that the statute covered Marine security guards attached to a United States Embassy abroad. In addition, because of the concerted nature of the attack, DePue believed that the perpetrators could also be charged under 18 U.S.C. § 1117 with conspiring to violate § 1116.

At the time of the murders, § 1116 was not a capital offense and had a five-year statute of limitations. As a result of the Violent Crime Control and Law Enforcement Act of 1994, § 1116 was made a capital offense, with an

unlimited statute of limitations. But the Act did not apply retroactively to crimes committed before its enactment.

Yet, despite the applicability of these statutes to the crimes, there were several problems confronting DOJ prosecutors seeking to bring a winnable case against the Zona Rosa perpetrators.

(a) Extradition

As noted above, the greatest impediment to prosecution of the case in the United States involved obtaining custody over any Salvadoran citizen. Even when they were investigating the case, DOJ attorneys believed that obtaining custody of a Salvadoran would be unlikely.

(b) Admissibility of Rivas' Confessions

The various DOJ attorneys assigned to the Zona Rosa case had differing beliefs about the admissibility of Rivas' confessions. AUSA Hannon believed that Rivas' confessions would be admissible in a United States court. Hannon noted in a prosecutive memorandum dated January 10, 1989, that the Miranda rule does not apply to the conduct of foreign officials, and the only test which his confession must pass was a voluntariness test. One exception to that rule, however, is that the Miranda rule applies if foreign officials act as agents of the United States government. Hannon expected that the defense in the Rivas case would argue that the entire Salvadoran investigation was directed by the United States. Hannon was concerned about the role of CIA personnel in the Salvadoran investigation and how information regarding their role could be presented without revealing classified information in court. On balance, however, Hannon believed that it could be proved that the Salvadorans were not agents of the United States when they conducted their investigation.

Hannon also believed that Rivas' initial confession to the National Guard was voluntary. Hannon was concerned about the prolonged interrogation, but believed that "if properly considered in the context of an intelligence gathering operation designed to identify guerrilla operations, a court could conceivably admit the initial confessions under a totality of the circumstances test."

Hannon knew that, according to the human rights group "The Americas Watch" and some members of Congress, one of Rivas' interrogators was alleged to have committed various human rights violations in El Salvador. Hannon questioned whether the United States should use this interrogator as a witness. Hannon believed, however, that even if the initial confession were not admissible, the subsequent confessions to judicial authorities would be.

Other prosecutors we interviewed did not share Hannon's sanguine view. As noted above, AUSA Biros believed there to be serious questions as to the voluntariness of Rivas' confession to Salvadoran authorities. TVCS attorney Biehl agreed. He reported that when he interviewed one of Rivas' interrogators in El Salvador, the interrogator had described the interrogations as "intense." Biehl said this probably was an understatement. The interrogator had laughed when Biehl asked whether Rivas was allowed to sleep, which indicated to Biehl that sleep deprivation techniques were used. Biehl also said that the interrogator was a "frightening" person, and Biehl doubted that a United States jury would believe the interrogator if he testified as to the facts of the interrogation. Biehl concluded that he did not think a United States judge would admit Rivas' confession to his Salvadoran interrogators.

Biehl also believed that Rivas' judicial confession would not be admitted. Biehl said that the judge was a very impressive and courageous person and that he was subsequently murdered in El Salvador by unknown assassins. Biehl stated that the judge had put on the record that Rivas' confession was voluntary, but Biehl did not believe that this was sufficient to clear the taint of any prior involuntary confession.

The AUSA who later succeeded Hannon in handling the case, AUSA Brian Murtagh, also did not believe that Rivas' confession would pass the voluntariness test and be admitted in a United States court. Murtagh noted that Rivas was subjected to extensive interrogation before he confessed, lasting as long as fourteen hours. Even if Salvadoran witnesses were available to testify to the circumstances of the confession at the inevitable suppression hearing before a United States court, Murtagh believed that Rivas could argue that the Salvadorans were acting on behalf of the United States when they obtained the statements from Rivas. Murtagh was worried that he would not be able to

rebut such claims because of his inability to use classified information or CIA witnesses in his case without compromising United States security or embarrassing the government of El Salvador.

Murtagh stated that, although he did not raise this directly with the CIA, his experience led him to believe that the CIA would be reluctant to let any of its employees or assets testify in a United States trial. Therefore, Rivas' statements to the CIA polygrapher would not get before the court. Murtagh stated that he did not think a confession by Rivas to the CIA would have been admissible in any event, because that would likely have been ruled to be the product of previous involuntary confessions.

Thus, despite Rivas' several confessions, the predominant opinion among DOJ prosecutors was that the confessions would not be admitted in any United States prosecution and, even if they were admitted, would be discounted by the jury.

(c) Motion to Suppress [REDACTED] Identification of Rivas

Both Biehl and Murtagh stated that they were also concerned that [REDACTED] identification of Rivas in the Salvadoran lineup would not survive a suppression hearing contesting the admissibility of the lineup identification. The FBI tried to obtain information from the Salvadoran government about the witnesses to the lineup, but the FBI could not get from the Salvadorans any photographs of the lineup, which would have been important in rebutting a claim that the lineup was unduly suggestive.

On December 4, 1989, Murtagh wrote a letter to Robin Frank from the Legal Advisor's Office at DOS requesting aid on the Rivas prosecution. Murtagh included a number of specific requests for information that would be necessary for a United States prosecution of Rivas. One of the requests was for information on the lineup that [REDACTED] had viewed. Murtagh said he never received anything back from Frank--who left her position at DOS shortly after this letter--from anyone else at DOS, or from the Salvadorans. Murtagh believed that without such information, DOJ could not overcome a claim that

the lineup was unduly suggestive, which would undoubtedly be raised in a United States trial.

(d) Problems with Evidence Handling

As noted above, the forensic evidence collected by the Salvadorans was not well-handled. DOJ attorney Biehl called the forensic evidence in the case "terribly mismanaged." The crime scene had not been preserved, and there was no established chain of custody for any piece of evidence recovered at the scene. Biehl said that DOJ was given no information on who found the evidence or where it had been found. For example, Biehl recalled a bag full of shell casings and bullet fragments labeled "Zona Rosa," with no further identification. The DOJ attorneys also tried to get television tapes of the crime scene, but the Salvadorans were not able to locate them.

Murtagh similarly described problems with the chain of custody of the bullets extracted from the bodies of the Marines in El Salvador. Bullets were given by the Salvadorans to the FBI for comparison with any weapons that were found. But the bullets were not labeled properly by the Salvadorans, and no one bullet could be traced with an adequate chain of custody to a specific victim. Without such evidence, the bullets might not be admissible. Moreover, no gun was found that was linked to the Zona Rosa murders.

(e) Problems Obtaining Information During a Civil War

The difficulties in obtaining information and witnesses from a country in the middle of a civil war were many. The Salvadoran police and military were not consistently reliable, both in terms of their investigative skills and in refraining from the use of coercion on prisoners. The United States Embassy was involved in numerous investigations of Salvadoran military human rights abuses and "death squads" and was familiar with the potential for violence and corruption on the part of the Salvadoran interrogators.

In addition, it was difficult to locate witnesses or convince witnesses to cooperate with a United States investigation. Witnesses were understandably

afraid of retaliation, as evidenced by the disappearance of eyewitness [REDACTED], who was allegedly killed by the guerrillas, and the assassination of the judge who witnessed Rivas' confession.

7. The Indictment of Rivas

The consensus of DOJ attorneys we interviewed was that the case against Rivas was essentially a "one-witness identification case," relying on the testimony of [REDACTED]. If Rivas' confession was inadmissible, which was likely, there was no admissible evidence against Rivas other than [REDACTED] testimony. Nevertheless, DOJ believed in 1988 that [REDACTED] testimony was sufficient to indict Rivas. DOJ made the decision, however, to wait until after Rivas turned 21 on October 31, 1988, to indict him. Under 18 U.S.C. § 5032, a defendant could be prosecuted as an adult when he was 21, even though the offense was committed before he reached that age. AUSA Hannon obtained a sealed complaint and warrant against Rivas on November 10, 1988.

In 1988, DOJ attorneys presented several United States citizens who were eyewitnesses to the shooting to testify before the grand jury, although none were able to identify Rivas. Several Salvadoran military officials and prosecutors also came to the United States in connection with the investigation, but they did not testify before the grand jury.

DOJ attorneys decided not to have [REDACTED] testify before the grand jury because of his poor English. The DOJ Attorneys who interviewed him were satisfied with his recall of events, and they did not believe that his first-hand testimony needed to be presented. His testimony was summarized before the grand jury by an FBI agent.

On September 15, 1989, in response to renewed concerns that the Salvadoran government was about to include the Zona Rosa defendants in an amnesty, DOJ prosecutors presented an indictment against Rivas to the federal grand jury in the District of Columbia. On the same day, the grand jury returned an indictment charging Rivas with four counts of murder of an internationally protected person under 18 U.S.C. § 1116 and one count of

conspiracy under 18 U.S.C. § 1117. The indictment was returned under seal.

A criminal complaint was filed and a warrant issued for Garcia as a material witness. Although none of the DOJ prosecutors felt it was likely that Garcia would ever be used as a witness, they wanted to preserve the option to do so.

8. Plans to Obtain Custody of Rivas

On September 7, 1989, the United States Embassy in El Salvador reported that the government of El Salvador had made "overtures that they would entertain releasing captioned subject Bolanos, Garcia Melendez, Dimas Aguilar, Juan Antonio Lucero for prosecution in the U.S." On September 12, 1989, a meeting was held among DOJ and DOS participants to discuss the possible release to the United States of the Zona Rosa defendants. DOS officials reported that Salvadoran officials had asked what the United States government would do if Rivas suddenly appeared aboard a flight to Miami. The Salvadoran officials had been told that the United States would welcome such an event and that Rivas would be arrested. FBI agents stated at the meeting that they were prepared to arrest Rivas in Miami if he arrived in that manner.

Other options were also discussed at the meeting, including the possibility of the FBI agents' flying to El Salvador aboard a United States military aircraft, taking custody of Rivas, and transporting him back to the United States. The FBI believed that this option would give FBI agents time to conduct an in-depth interview of Rivas during the trip to the United States. Because of the belief that Rivas' confessions to Salvadoran authorities might not be admissible in a United States court, it was believed that a statement from Rivas to the FBI was very important.

Department of Defense (DOD) officials agreed to make a C-130 aircraft available for this mission. The aircraft was placed on alert after the meeting, ready to fly to El Salvador. According to a DOD participant in the meeting,

the aircraft remained on alert for about a week, but it was never asked to fly to El Salvador.

On December 27, 1989, the Director of the FBI sent an "Action Memorandum" to the Attorney General outlining three possible scenarios for taking Rivas into custody. The plans also included obtaining custody over Garcia as a material witness. The three proposals were as follows. (1) Salvadoran authorities would give the FBI custody of Rivas and Garcia by putting them on board a United States Marine Corps C-130 aircraft, which would then fly to Andrews Air Force Base. (2) The Salvadorans would expel Rivas and Garcia to a third country, such as the Dominican Republic, and the third country turning them over to FBI custody. (3) The Salvadorans would place Rivas and Garcia on a Government of El Salvador aircraft with no other passengers and fly them to the United States, where they would be arrested and taken to the nearest United States Magistrate.

However, none of these plans were implemented because the Salvadorans did not ultimately extend the amnesty to the Zona Rosa defendants and never agreed to send the defendants to the United States. Rather, the Salvadorans agreed to try the defendants in their courts.

H. Current Status of Prosecution of Rivas

1. Outcome of Judicial Proceedings in El Salvador

In January 1988, the military appellate court granted amnesty to political prisoners, including the Zona Rosa defendants, but stayed that opinion pending appeal to President Duarte. The United States pressured the Salvadorans to go forward with the prosecution of the Zona Rosa defendants and not include them in any amnesty. The United States Congress also passed a bill withholding a percentage of United States aid to El Salvador. The bill stated that the withheld money could only be obligated if the "accused murderers of the United States Marines in El Salvador have not been released from prison as the result of an amnesty."

On April 8, 1988, Duarte reversed the decision of the military appellate court, holding that the amnesty did not apply to the Zona Rosa defendants. Duarte's decision was based on two treaties to which El Salvador and the United States are signatories--the 1971 Convention to Prevent and Punish Acts of Terrorism and the 1979 Convention on the Prevention and the Punishment of Offenses Against Internationally Protected Persons. Duarte found that the United States Marines working at the United States Embassy were internationally protected persons as defined under the treaties and that the treaties superseded the amnesty agreement. DOJ, the FBI, and DOS were involved in persuading the Salvadoran government to pursue the case against the Zona Rosa suspects.

Defense counsel appealed the ruling to the Supreme Court, which ruled in September 1989 that the case should be reopened and the defendants tried. The case was remanded to a military court for trial. Another appeal followed on the issue of whether a military or civilian court had jurisdiction. The Court of Second Instance finally ruled that a military court should hear the matter.

In April 1991, Rivas, Garcia, and Dimas were finally tried in a Salvadoran military court. All were convicted of the charges against them. Rivas was found guilty of subversive association, cooperation in subversive propaganda, and acts of terrorism resulting in the deaths of several persons in conjunction with the Zona Rosa attacks. He was sentenced, respectively, to three, two, and twenty years, consecutively, on those charges. Garcia was found guilty of cooperating in acts in support of terrorism and related charges, and he was sentenced to 11 years in prison. Dimas was convicted of subversive association and sentenced to four years. Because he had already served over six years at the time of his conviction, he was released from prison.

According to DOJ prosecutors, the convictions against the defendants were satisfying, and they believed that "justice had been served." They also thought that a 25 year sentence for Rivas, to be served in a Salvadoran jail, was a significant sentence. As a result, they made no further attempts to gain custody of him or to have him prosecuted in the United States. After Rivas' conviction, AUSA Murtagh received requests from the FBI to dismiss the

United States indictment. DOJ did not want to do this, however, in an abundance of caution, because the situation could change in El Salvador and there was no compelling reason why the indictment had to be dismissed.

2. Deterioration of the United States Case against Rivas

After [REDACTED] came to the United States, his value as a witness diminished and eventually was destroyed. AUSA Murtagh reported that when [REDACTED] was flying to Washington from El Salvador, he told DOS Legal Officer Chidester that he had used the gun that had been taken from his waistband in the Zona Rosa attack to kill someone. [REDACTED] said that he had been with his girlfriend on the beach and someone had raped his girlfriend. [REDACTED] said he got a gun, shot and killed the rapist, and kept the gun until it was taken from him during the Zona Rosa attack. Chidester did not tell anyone from DOJ about this conversation when they arrived in the United States. But [REDACTED] later reported the same story to an FBI Special Agent, who recorded the information and informed the DOJ prosecutors about it.

This story concerned the DOJ prosecutors, who advised INS in writing of this information. Prosecutors did not believe that this fact made [REDACTED] unusable as a witness. However, subsequent events in the United States undermined his value as a witness. In the summer of 1990, [REDACTED] brought his girlfriend, who was also considered to be his common-law wife, from El Salvador to join him in Washington. (This was a different girlfriend from the one who had been raped on the beach.) [REDACTED] girlfriend also brought her 11-year-old daughter with her to the United States. In 1991, [REDACTED] was arrested in Fairfax County, Virginia, for sexually molesting the 11-year-old daughter. He was charged with two counts of sexual battery on a minor. In a state court trial, [REDACTED] was convicted of the charges and sentenced to 20 years. Murtagh said that DOJ had absolutely no involvement in the case and did not intervene to help [REDACTED] in any way. [REDACTED] is currently serving his sentence in a Virginia prison and has not been in contact with DOJ prosecutors.

Both Murtagh and Biehl now agree that, as a result of the conviction, [REDACTED] has "fallen apart" as an effective witness and that a trial resting on his

testimony--even if he were still cooperative--would be virtually impossible for the government to win.

3. Release of Rivas by the Salvadorans in 1995

On August 8, 1995, DOS informed the FBI that Rivas was about to be released from Salvadoran prison because of the passage of a new law regarding juvenile crimes. Under the Salvadoran law, a juvenile could only be imprisoned for a maximum of seven years on a murder charge. The law applied to Rivas because he was 17 at the time of the Zona Rosa killings. The Salvadoran government tried to keep Rivas in custody in a psychiatric institution, but that effort failed when a psychiatrist found that he no longer posed a danger to society. On September 7, 1995, Rivas was released from prison, having served 10 years of a 20 year sentence.

AUSA Murtagh said that at the time of Rivas' release, no one believed that El Salvador would expel Rivas to the custody of the United States. Murtagh and Biehl also believed that the case against Rivas was no longer winnable because of the problems with establishing the circumstances of the lineup in which [REDACTED] identified Rivas, the inadmissibility of Rivas' confessions, and the problems with [REDACTED] as a witness because of his criminal conviction for sexual molestation of a minor. Murtagh said he thought he could explain to a jury [REDACTED] killing the rapist on the beach in El Salvador, but [REDACTED] conviction for sexual battery could not be explained. Moreover, DOJ attorneys believed that the 10 years that Rivas had served in a Salvadoran prison was a considerable sentence, even in relation to United States standards.

During the week of February 20, 1996, however, at the request of DOJ prosecutors, an FBI agent travelled to El Salvador to review evidence in the possession of the Salvadoran authorities to determine whether any prosecution in the United States of Rivas or anyone else, including Gilberto Osorio or Pedro Andrade, was possible. The FBI agent reviewed the National Police file but could not find the record of the confessions by Rivas. The FBI agent found that the several different Salvadoran agencies that had investigated the Zona Rosa murders no longer existed. Also, according to Salvadoran officials, some of the files from the non-existent agencies had been "purged."

Moreover, the FBI agent reported that it was his impression that, because Rivas served a considerable sentence in El Salvador and was released because of changes in the country's juvenile code, the United States could not expect any assistance from the Salvadoran government in pursuing prosecution of Rivas in the United States. The FBI agent suggested that, faced with the lack of solid evidence and the fact that [REDACTED] was convicted of child molestation, the indictment should be dismissed.

On February 11, 1996, the FBI learned that Rivas was seeking asylum in Australia. The FBI informed the Australian Assistant Secretary for Immigration that there was a warrant for the arrest of Rivas in the United States. The FBI notified Australia of the United States' strong opposition to Australia granting political asylum to Rivas because of his terrorist history, the heinous nature of the crime, and the lack of danger to him in El Salvador.

The consensus of the DOJ prosecutors we interviewed was that there is no reasonable possibility of a conviction against Rivas. The prosecutors believe that he would not be convicted in a United States court based on the available evidence. They believe that it would be a mistake for the United States to seek to gain custody of Rivas and then lose the case in a suppression hearing or before the jury. Finally, they point out that, although it would have been preferable for Rivas to have served his full sentence in El Salvador, he did serve a substantial portion of it in the extreme conditions of the Salvadoran prison system, despite his young age.

I. DOJ Information on Other Alleged Perpetrators

1. Juan Antonio Morales Lucero

On July 13, 1988, the Salvadoran National Police arrested Juan Antonio Morales Lucero (Morales), also known as "Ruperto," and charged him with involvement in the Zona Rosa murders. Morales allegedly told the Salvadoran police during interrogation after his arrest that he had been a member of the PRTC and had participated in the murders. We have no information about the circumstances under which he was interrogated or the voluntariness of his confession. Morales told police that he had provided security from the back of

the pickup truck used in the killings and remained in the truck with the driver while the others fired on the victims. Morales stated that others who participated in the attack were *Walter*, *Ulises*, *Julio*, *Manuel* and another whose name he could not recall. Morales said he was armed with a Galil rifle; *Julio*, *Walter*, and *Manuel* with M-16's; *Ulises* with a 9 mm pistol; and the driver with a .38 special revolver. Morales said he left the PRTC immediately after the Zona Rosa killings when the PRTC leaders failed to pay him the \$100 they had promised him for his part in the killings.

The CIA notified FBI Headquarters of Morales' arrest by teletype on July 26, 1988. FBI Headquarters forwarded this information to the FBI Legat, Panama City, and asked it to obtain the details of the arrest and Morales' statements. The Panama Legat collected reports of the interview of Morales in Spanish, summarized them, and forwarded them by airtel to the FBI in Washington on September 14, 1988. The airtel also changed the subject heading of the case to include Morales as a subject. FBI Headquarters forwarded the airtel to WMFO on October 11, 1988. FBI records show that on October 15, 1988, FBI Special Agent [REDACTED], the case agent responsible for the case, received these reports.

On November 1, 1988, WMFO agent [REDACTED] completed the FBI Prosecutive Report for the Zona Rosa matter. This report does not reflect the change in the subject heading to include Morales and does not include any of the information on Morales' confession to Salvadoran authorities.

On November 23, 1988, Legat Panama City sent a teletype to FBI Headquarters reporting that DOS had requested information from the United States Embassy about developments regarding Morales' prosecution since the arrest of Morales on July 13, 1988. No response to this request was found in the FBI files.

On March 3, 1989, the United States Embassy reported to DOS and the FBI in Washington that there had been no judicial developments since the defense filed a habeas corpus petition with the Salvadoran Supreme Court on behalf of Morales after President Duarte overturned the release of the three original defendants under the amnesty plan. The Embassy reported that no

action could be taken in the case until the Supreme Court rendered its decision. "For this reason, Morales has not been brought before the lower court as a co-defendant in the Zona Rosa case." This information was received by FBI Headquarters and forwarded to WMFO and the Panama City Legat.

On May 4, 1989, DOS cabled the United States Embassy and sent an informational copy to FBI Headquarters and the Panama City Legat [REDACTED]. The cable requested information on the status of the Salvadoran case and the status of the case against Juan Antonio Lucero [Morales]. FBI Headquarters appears to have added an addendum requesting WMFO and Legat Panama City to advise Headquarters of the results of their investigation as requested by DOS and to "ensure this matter is closely followed and leads expeditiously handled."

On August 18, 1993, Morales was eventually tried by a Salvadoran court for his involvement in the Zona Rosa murders. Morales was acquitted by a jury after 12 hours of deliberation. Newspaper accounts of the acquittal report that Morales claimed that he had confessed to police so that they would stop beating him. His attorneys also argued that other guerrillas, presumably in other cases, had been incarcerated for less time than Morales had served since his arrest in 1988.

Our review of DOJ files revealed no further information concerning Morales. Neither Rivas, Garcia, nor Andrade provided any information to the Salvadoran police or other law enforcement implicating Morales in the Zona Rosa massacre.

We found no evidence that the DOJ prosecutors handling the Zona Rosa case were provided the reports about Morales' arrest. In connection with the potential release of the Zona Rosa defendants by the Salvadoran government, in September 1989 the FBI met with DOJ prosecutors to discuss plans to obtain custody of some of the defendants, particularly Rivas, who was about to be indicted in the United States. See Section II(G)(S), above. The names of four defendants in Salvadoran custody were raised, including Morales' name. But it is not clear whether details regarding Morales were discussed during this meeting. There is no evidence that the reports regarding Morales' arrest and

confession were ever conveyed to DOJ prosecutors. The reports received by the FBI were not in any DOJ prosecutor's files. As discussed above, [REDACTED] did not include any information about Morales in his November 1, 1988 Prosecutive Report on the Zona Rosa killings. [REDACTED] told us that he has no recollection of the information about Morales.

AUSA Murtagh told us that he had no recollection of ever learning about the details of Morales' arrest or reviewing any statements by him. Murtagh also stated that if he had received the information about Morales, he would have requested further investigation into his involvement in the attack. Murtagh said he would have probed the circumstances surrounding Morales' confession and whether there was any other evidence indicating he had been present during the attack. Because Murtagh was not aware of the Morales information, the question of whether other witnesses, such as [REDACTED] could identify Morales was never explored.

Murtagh stated that he might have included Morales in the Rivas indictment if there was sufficient evidence, but he would not have tried Morales alone because of the paucity of evidence against him. He also stated, however, that it is unlikely that he would have sought an indictment against Morales with only a confession to Salvadoran military authorities as evidence.

2. Other Alleged Perpetrators

The other three gunmen to the attack were never apprehended or identified. *Julio* died during the attack. *Ulises* and *Walter* were believed to have died in battle. *Macias* was never apprehended or fully identified.

J. DOJ Information on Alleged "Intellectual Authors"

1. Pedro Antonio Andrade

In Section IV of this report below, we provide a detailed description of the information DOJ obtained on Andrade. In that section we describe the intelligence implicating Andrade in the attack and how he was permitted to enter the United States on a public interest parole.

2. Jose Manuel Melgar, aka Rogelio Martinez

Pedro Andrade was captured by the Salvadorans in May 1989 and interviewed by the FBI in June 1989. Andrade told the FBI that Rogelio Martinez had planned the Zona Rosa murders and asked Andrade to arrange for medical care and safehouses for the guerrillas. Andrade's statement is fully detailed at Section IV(B)(5) of the report. Aside from Andrade's statement, we found no evidence in DOJ files of Melgar's involvement in the killings.

In February 1991, the United States Embassy reported to the FBI that Jose Manuel Melgar, one of the alleged intellectual authors of the murders, was still at large and reportedly was travelling frequently between Managua, Nicaragua and Mexico City as a "senior PRTC political/military operative." The Embassy requested that the FBI, in conjunction with AUSA Murtagh, interview Andrade to determine if there was sufficient evidence to indict Melgar and request his extradition. The Embassy was informed by DOJ that no new indictments were possible, because the five-year statute of limitations, discussed above, had run.

3. Francisco Alberto Jovel

Francisco Alberto Jovel Urquilla, aka Commander Roca, was believed by Salvadoran authorities to be a leader of the PRTC. In April 1989, at the request of the CIA, the FBI ran traces on the wife of Jovel, Celia Alfaro Jovel, aka "Elizabeth Sol," but this request was not related to the Zona Rosa investigation.

On September 19, 1994, the Director of the FBI sent a teletype to DOS, CIA, INS, and various FBI field offices advising them that DOS had informed the FBI that Francisco Jovel, aka "Roberto Roca," had applied for a transit visa for travel to Tokyo through the United States. The FBI stated that it was opposed to granting the transit visa because of Jovel's membership in and leadership of the PRTC, and the PRTC was responsible for the assassination of four United States Marines. The FBI stated that *Mario Gonzales* had told the Salvadoran police that Jovel was responsible for holding all PRTC records and was present at the PRTC residence on a daily basis. The FBI concluded that,

based on Jovel's role in the PRTC and his possession of PRTC documents, it was highly likely that Jovel was "well aware" of the planning and execution of the Zona Rosa murders. The transit visa for Jovel was denied.

Aside from the statements by Andrade that Jovel was involved in the leadership of the PRTC, our review of DOJ files reveal no evidence of any involvement in the Zona Rosa killings. According to an FBI interview of Gilberto Osorio in December 1995, discussed in detail below, Jovel is now a member of the Salvadoran Congress.

K. Others Mentioned in Connection with the Murders

1. Gilberto Osorio

In Section IV of this report below, we provide a detailed description of the information DOJ had on Osorio. No information in DOJ files suggested that he participated in the Zona Rosa attack.

2. Pedro Vladimir Rodriguez

On January 17, 1986, the Salvadoran National Guard raided a house in San Salvador which reportedly had a cache of weapons, some of which had been used in the Zona Rosa attack. The National Guard arrested Pedro Vladimir Rodriguez and found a number of weapons in his home. Rodriguez' father, alleged to be a member of the PRTC, was not at home during the police raid and was never captured. According to Rodriguez, PRTC members *Mario* and *Ulises* delivered the weapons to the house on May 1, 1985. Rodriguez said that he and his father were responsible for guarding the weapons. Five days before the Zona Rosa killings, *Ulises* came to the house and told Rodriguez to prepare three M-16 rifles, one AR-15 rifle, one submachine gun, and two hand-grenades that *Ulises* would pick up later. Two days later, *Ulises* and *Mario* collected these weapons.

Rodriguez' brother told Salvadoran authorities that several days after the shooting, he saw the area of the arms cache had been dug up. This indicated to him that the weapons taken by *Ulises* and *Mario* may have been returned.

Rodriguez was able to identify *Ulises* from a photograph. Rodriguez stated that his "contact" with the PRTC was *Walter*, who told Rodriguez that he had participated in the Zona Rosa attack and that *Julio* had been killed during the attack. Another of Rodriguez' "contacts" in the PRTC, Jose Anibal Massferrer, later told Rodriguez that *Ulises* and *Walter* had been killed in the Salvadoran Air Force bombing of Guazapa in November 1985. Rodriguez was not charged by the Salvadorans and was released.

3. Other Perpetrators Mentioned in CIA, DOS and DOD OIG Reports

There is no information in DOJ files as to any of the other alleged perpetrators mentioned in the reports of the other OIGs.

L. Assessment of the Salvadoran and United States Efforts to Identify and Prosecute those Responsible for the Murders

1. Salvadoran Efforts

Several witnesses we interviewed stated that it was extremely difficult to identify and capture the perpetrators of a terrorist act in the middle of the Salvadoran civil war, and the Salvadorans deserve credit for arresting the perpetrators to the Zona Rosa murders and prosecuting them. For example, the Deputy Chief of the CIA's Station (DCS) in El Salvador between August 1984 and December 1986, said that the Salvadorans put in much effort on the Zona Rosa case because United States citizens had died, when many Salvadorans were being killed on a daily basis. The DCS recognized, however, that had the United States government not pushed the Salvadorans to act, the killings would not have been investigated as aggressively as they were, but instead would have been considered "war as usual" to the Salvadorans.

Ambassador David Passage, the Charge d'Affairs in El Salvador at the time of the murders, also reported that at the time of the murders no one at the Embassy believed that the perpetrators of the Zona Rosa murders or the FMLN

could be taken to court in El Salvador. The Salvadoran prosecution of Zona Rosa defendants was therefore surprising.

Our assessment of the Salvadoran investigation is in accord with these statements. The Salvadoran efforts were reasonable in light of their experience and training and the context in which the crime occurred. While there were failings that would have seriously affected a United States prosecution—such as the failure to preserve the crime scene, to maintain an adequate chain of custody, to interrogate witnesses without any taint of coercion—the Salvadoran failures occurred not because of a lack of effort but because of poor training and the involvement of the military in a law enforcement investigation. By and large, we found that the Salvadorans demonstrated an aggressive effort to identify, prosecute, and incarcerate the guerrillas involved in the murders, particularly in view of the civil war being waged in El Salvador. Criminal prosecution of Salvadoran guerrillas, in the midst of a civil war, was an unusual concept. Military action was the usual response, and most guerrillas captured before the Zona Rosa killings were held without trial as prisoners of war. In this case, however, there were substantial efforts made by the Salvadorans to identify and prosecute the perpetrators, resulting in the apprehension and conviction of Rivas, Garcia, and Dimas, and the unsuccessful prosecution of Morales.

2. DOJ Efforts

We conclude that DOJ's investigative efforts were reasonable and thorough, despite the many obstacles that DOJ investigators faced, and that DOJ's prosecutive decisions were appropriate. The investigation of a case in a foreign country in the middle of a civil war was exceedingly difficult. The task was made more difficult by the initial investigative steps taken by the inexperienced Salvadoran police and their failure to preserve the crime scene. DOJ prosecutors and investigators made substantial efforts to uncover admissible evidence against Rivas in El Salvador and put a substantial effort into finding and then relocating eyewitness [REDACTED]. DOJ energetically pursued the prosecution of Rivas, at the request of DOS, even though the United States indictment was sought only as a "backup" to the Salvadoran prosecution. It was always uncertain whether the United States would ever gain custody of any

Salvadoran defendants because of extradition problems. Nevertheless, DOJ gave the Zona Rosa case substantial attention, even in light of numerous other international terrorism cases requiring attention.

The FBI also made substantial efforts in this case, initially providing requested assistance to the Salvadorans and then assisting DOJ prosecutors when its case was opened in 1987. The investigative report compiled by the FBI concerning the Zona Rosa case reflected a substantial amount of work.

DOJ's decision not to seek indictments against anyone other than Rivas was reasonable in view of the absence of substantial admissible evidence against anyone else. A review of DOJ files revealed that the evidence against Garcia showed that, at most, he was an "accessory after the fact," because he overheard discussions of the murders and did nothing. No United States prosecution of Garcia would have been viable on that basis. Despite Garcia's statement to Salvadoran authorities that he was involved in the actual shooting, his later recantation of that "confession" and his lack of knowledge of the crime scene later convinced Salvadoran authorities that he was not directly involved. He was convicted of activities in support of terrorism, but he was not convicted of participating in the Zona Rosa attack. Similarly, there was insufficient proof that Dimas was involved either directly or in a conspiracy to kill the United States Marines.

We find there was insufficient evidence to prosecute any of the other alleged terrorists detained by the Salvadorans. Aside from statements by Andrade that Jose Manuel Melgar, alias Rogelio Martinez, and not Andrade himself, was the mastermind of the killings, no other evidence implicates Melgar in the murders. Our review of DOJ files also reveals no evidence to prove that Francisco Alberto Jovel, Pedro Vladimir Rodriguez, or his father, were involved in the Zona Rosa killings.

The one failure in this case concerned Juan Antonio Morales Lucero, who was arrested and tried in El Salvador for allegedly providing security during the Zona Rosa attack. From our review of this case, it appears that DOJ did not actively investigate this matter. Various documents about Morales' capture and admission were sent to the FBI, but these documents do

not appear to have been forwarded to DOJ prosecutors and were not included in the FBI's November 1988 prosecutive report. As a result, no further investigation was conducted on Morales. This breakdown cannot be condoned. However, it appears that there was insufficient evidence to bring a case against Morales, who was acquitted in El Salvador. It is also unlikely that the United States would have ever obtained custody of him, especially after his acquittal in El Salvador.

A full discussion of DOJ's decision not to prosecute Pedro Andrade is found below in section IV.

In sum, we believe that DOJ's overall investigation of the Zona Rosa suspects was thorough and its prosecutive decisions reasonable.

III. DOJ'S RELATIONSHIP WITH THE ZONA ROSA SUSPECTS

A. Introduction

This section addresses SSCI's Questions 3 and 4:

- Question Three: What information did DOJ receive from the perpetrators/intellectual authors of the murders?
- Question Four: What relationship did DOJ have, either before or after the murders, with the perpetrators/intellectual authors of the murders or other individuals known or suspected to have been involved?

B. Information DOJ Received from Perpetrators/"Intellectual Authors" of the Murders

1. Garcia

As discussed above, DOJ received the statements from Garcia when he was interviewed by the Border Patrol, FBI, and Naval Investigative Service on August 6 and 7, 1985. DOJ and USAO prosecutors and FBI agents also interviewed him in El Salvador in February 1988.

2. Andrade

As we discuss below, DOJ received information from Andrade when the FBI interviewed him shortly after his capture in El Salvador in June 1989.

3. Rivas

DOJ received no information from Rivas.

C. DOJ's Relationship with Perpetrators/"Intellectual Authors" of the Murders

DOJ had no relationship with any of the alleged perpetrators or intellectual authors of the murders.

IV. THE ENTRY OF ZONA ROSA SUSPECTS INTO THE UNITED STATES

A. Introduction

This section addresses SSCI's Question 6.

- Question Six:
- (a) What role did DOJ play in determining whether any of the known or suspected perpetrators/intellectual authors of the murders, or members of their families, were authorized to travel to or take up residence in the United States?
 - (b) Under what conditions and with what justification did this occur?
 - (c) Did any wrongdoing, negligence, or breach of procedures occur in allowing known or suspected Zona Rosa perpetrators/ intellectual authors to enter or remain in the United States and, if so, by whom?
 - (d) If suspected perpetrators/intellectual authors of the murders are in this country illegally or without current authorization, what is being done to correct the situation?

Two persons allegedly connected to the Zona Rosa murders, Pedro Andrade and Gilberto Osorio, are currently living in the United States. At the time of Andrade's arrest in El Salvador in 1989, he was alleged to have masterminded the attacks. In June 1990, he was allowed to enter the United States on a three-year public interest parole. Osorio is a United States citizen currently living in San Francisco. In 1995, a "60 Minutes" television show reported that he admitted participating in the Zona Rosa murders. Osorio denied admitting this or having any connection to the murders.

In this section of the report, we will first describe in detail the process by which Andrade was permitted to enter the United States, then describe the information DOJ had on Osorio.

B. The Parole Request for Andrade

1. Andrade's Arrest in El Salvador

On May 28, 1989, Andrade was arrested by the Salvadorans. At the time of his arrest, the Salvadorans and the CIA believed that *Mario Gonzales* had played a key role in planning the Zona Rosa attack. A May 30, 1989 CIA cable recounting Andrade's debriefing by Salvadoran authorities stated: "Thus far 'Mario Gonzales' is not talking, although he has admitted he is, indeed, 'Mario Gonzales' and that he played a role in the Zona Rosa attack." No further information about Andrade's alleged admission to Salvadorans was provided, nor is DOJ aware of any more detailed information about this statement.

On May 30, 1989, the CIA Station in El Salvador questioned CIA Headquarters about whether Andrade could be prosecuted in the United States and whether the case should be pursued. The Station said that it considered the case to be important and that it was imperative to bring the full weight of the law to bear on the man responsible for the death of four United States Marines.

Also on May 30, 1989, the CIA sent a request to the FBI entitled "Request for traces on individual responsible for the massacre of U.S. Marines in San Salvador in June, 1985." The request sought any criminal records on Andrade or other information in FBI files on him. The request stated, "Andrade has been identified as responsible for the 1985 Zona Rosa Massacre where four U.S. Marines were killed." The CIA reported that the Salvadoran police had found several documents on Andrade's person and in his home which tied him to the United States, such as a United States Social Security number for Andrade, a California identification card, a check cashing card issued in 1981 indicating that he worked for the Marriott Corporation, various other identification cards from the United States, and a slip of paper with an

address in Cliffside Park, New Jersey. The FBI ran searches for information on Andrade in its files but found nothing.

2. DOJ Learns of Andrade's Arrest

AUSA Murtagh first learned of the arrest of *Mario Gonzales* when CIA Office of General Counsel (OGC) attorney [REDACTED] called Murtagh on May 30, 1989, and requested that he come to CIA Headquarters to view an important cable. Murtagh went to the CIA that evening and met with [REDACTED] and CIA OGC attorney [REDACTED]. They told Murtagh that an individual named *Mario Gonzales* had been arrested in El Salvador and had said to Salvadoran authorities: "I can tell you something about Zona Rosa, but only if I can come to the United States." He had also said that he could identify someone who had masterminded the Zona Rosa murders.

[REDACTED] asked Murtagh to consider paroling *Mario Gonzales* into the United States to help with the Zona Rosa case. She told Murtagh that *Mario Gonzales* "might be involved in the Zona Rosa matter, but that CIA officers in El Salvador could not wait to get their hands on him" for intelligence information. Murtagh did not recognize the name *Mario Gonzales*.

The next day, Murtagh reviewed the FBI prosecution report. He realized that *Mario Gonzales* was listed in the FBI report and CIA documents as one of the planners of the Zona Rosa attack. Murtagh said he called [REDACTED] and expressed strong concerns about the CIA's request for a parole in light of the fact that the CIA had previously identified him as being involved in the Zona Rosa murders.

3. Proposed Interview of Andrade

On June 2, 1989, the FBI directed Mexico City Assistant Legat [REDACTED] to travel to El Salvador to interview Andrade. DOJ prosecutors believed that, to avoid taint on any potential criminal case against Andrade, [REDACTED] should conduct the interview without the presence of any CIA employees. Murtagh recalled telling the CIA and DOS that he did not want any CIA employees to interview Andrade about the Zona Rosa case. The CIA Station Chief also

remembered that a line was drawn early on that the Station was not to have anything to do with questioning Andrade about Zona Rosa.

DOJ's cautioning against any CIA involvement in the interview of Andrade was consistent with CIA cables we reviewed. On May 31, 1989, CIA Headquarters sent a cable to the CIA Station in El Salvador stating that the CIA "cannot be responsible for Andrade's entry into nor domicile in the U.S." It added: "To avoid involvement of [CIA case officers] in any potential criminal investigation, an [Embassy officer] representative should act as debriefer if Andrade decides to cooperate. A Station officer may sit in on the debriefing, but should refrain from actively participating in it."

On May 31, 1989, the Station reported that Andrade had led the Salvadorans to the largest single cache of guerrilla arms ever captured in the history of the Salvadoran insurgency. The Station considered this to be a major intelligence success attributable to Andrade.

On June 1, 1989, CIA Headquarters advised the Station that a DOJ representative would be travelling to San Salvador to debrief Andrade on the Zona Rosa killings. The Station was instructed not to become involved in developing the chain of evidence against Andrade and to have the Salvadoran police deal directly with DOJ.

On June 1, 1989, the CIA Station responded to the cable from CIA Headquarters, stating that it was disturbed by the previous cable "since it now appears to indicate that DOJ and not the CIA is now directing this case and that the Zona Rosa massacre, and not what else [Andrade] can give us about the FMLN and PRTC is now our most important goal." The cable continued:

While we feel strongly that he should be punished accordingly if it can in fact be proven that he was involved in the Zona Rosa massacre, we are also anxious not to lose control of this case until we can get out of him the rest of the important intelligence he says he has. Hence we are very much opposed to sending in [DOJ] at this particular moment to begin grilling him about the Zona Rosa. . . Hence we would like to ask your assistance in calming [DOJ]

down for a few days and asking them not to move to send in a representative from outside until we can all review the case again next week."

On June 2, 1989, the CIA Station sent another cable to Headquarters requesting permission to debrief Andrade directly. The Station stressed the importance of Andrade's information, including information relevant to safety issues surrounding Vice President Quayle's impending trip to El Salvador. By a return cable on June 2, CIA Headquarters granted the Station permission to debrief Andrade either directly or indirectly. Headquarters again made clear, however, that Station personnel should refrain from discussing the Zona Rosa case and should excuse themselves from any interview when Andrade began discussing it.

4. Washington Meetings Regarding Interview of Andrade

On June 7, 1989, Murtagh met with DOS and CIA officials at DOS concerning the Andrade case. Murtagh retained handwritten notes of this meeting. He recalled that the meeting resulted in an agreement that the Andrade matter would be treated as a criminal case and that a potential criminal prosecution of him would take precedence over other matters. At the meeting, Andre Surena, the DOS Assistant Legal Adviser for Law Enforcement and Intelligence (L/LEI), asked if DOJ and the CIA were on a collision course concerning the potential prosecution of Andrade. Murtagh recalled that CIA's [REDACTED] replied that they were not and that the CIA had no objection to the prosecution of Andrade. The question was also raised whether Andrade could be informed that he would not face the death penalty in the United States. Murtagh answered that Andrade could be told this because the death penalty was not available under applicable United States statutes.

Robin Frank, an Attorney-Advisor in L/LEI, also attended the meeting and took notes. Although she said that she had little memory of the meeting, her notes support Murtagh's recollection. They indicate that the CIA stated that it was "not prepared to take Andrade" and that the CIA had instructed the Station in El Salvador not to debrief Andrade on anything related to the Zona Rosa killings.

On June 8, 1989, CIA Headquarters sent a cable to the Station recounting the June 7 meeting. The cable stated that all present at the meeting had agreed that the best alternative would be for Andrade to stand trial in El Salvador for his participation in the Zona Rosa murders. The cable reported that DOS Legal Officer Richard Chidester was exploring this possibility with the Salvadorans. The cable added that the "fallback position would be to explore the likelihood of the Salvadorans sending Andrade to the U.S. to stand trial. In this vein, [DOJ] is exploring various options and has indicated some willingness to deal with Andrade should he be willing to cooperate, but the deal certainly would not include any grant of immunity from prosecution."

5. Interview of Andrade by the FBI and Chidester

As a result of the understandings between Murtagh, DOS, and the CIA, the FBI Assistant Legat from Mexico City, [REDACTED], travelled to El Salvador to interview Andrade about the Zona Rosa case. [REDACTED] had no involvement in the Zona Rosa matter before this trip. The Panama Legat, [REDACTED] had previously worked with DOJ prosecutors on the Zona Rosa investigation, but the United States Embassy was moved out of Panama because of the United States invasion of Panama, and [REDACTED] was unavailable for work on the Zona Rosa case. [REDACTED] was asked to substitute for [REDACTED] in interviewing Andrade.

DOS Legal Officer Chidester participated in the interviews of Andrade. According to a cable from the CIA Station on June 10, 1989, the CIA Station decided to forego direct participation in the debriefing of Andrade, despite CIA Headquarters permission to do so. The Station stated that it made this decision partly because Chidester's goal was for Andrade to end up in the United States judicial system, and the Station did not want CIA officers involved in a potential criminal case. The Station reported that Andrade could provide significant intelligence information, but he was unlikely to be cooperative unless he was offered something in return. Station employees briefed Chidester before Andrade's interview about areas of interest to the Station, such as arms caches, guerrilla personnel, and guerrilla activities.

On June 6, 1989, [REDACTED] and Chidester interviewed Andrade at the National Police Headquarters. [REDACTED] report of the interview stated:

In response to a question directly asking him if he had been involved in the [Zona Rosa] incident he replied in the affirmative and stated that he would like a chance to explain his involvement because he considered it to be minimal in comparison to others.

Andrade said that he was willing to answer questions about the Zona Rosa killings but that he was very tired and would prefer to do it another time. The interview was adjourned until the next day.

On June 7, 1989, [REDACTED] interviewed Andrade again. Chidester was not present. During this interview, Andrade provided the following information, which [REDACTED] recorded in his interview report. Andrade stated that he was a member of the PRTC and had planned and overseen many of the military actions that the PRTC had carried out in San Salvador. However, when PRTC guerrilla leader Rogelio Martinez came from the countryside into San Salvador in the spring of 1985, Andrade was cut out of some of the PRTC planning because Martinez outranked him and dealt directly with their superiors in the PRTC.

Andrade said that when guerrilla leaders Nidia Diaz and Miguel Catellanos were captured in the spring of 1985, Martinez began talking about the need for taking some kind of action that would adequately respond to this setback and would build up the guerrillas' morale. In early June 1985, Martinez asked Andrade to make sure that safehouses were available in the area of San Salvador and that a doctor or a clinic was also made available in case someone was injured in some kind of activity. At noon on June 19, 1985, Andrade met with Martinez at a restaurant. Martinez again questioned Andrade about the availability of safehouses and medical services. Martinez told Andrade that there was a military action planned that would be against the "Choles" (white people). Martinez urged Andrade to contact *Ulises* that afternoon because Martinez thought *Ulises* would be able to provide the telephone number of a doctor. On the afternoon of June 19, at about 5 p.m.,

Andrade met with *Ulises* in a restaurant that Andrade believed was called Don Pedro. *Ulises* did not have any information on a doctor or a medical facility.

Andrade reported that on June 20, 1985, he met with Martinez again. Martinez told Andrade that the incident the night before in San Benito [the area where the Zona Rosa is located] had been planned and carried out by his people. Martinez told Andrade that the action did not go exactly as planned and suggested that *Ulises* had "slipped up." Martinez said that he thought a member of an "international organization" had been hurt. Martinez did not specify what he meant by this.

Andrade said that on June 22, 1985, Martinez and Andrade met again. Martinez told Andrade that *Julio* had been injured, but that the June 19 action had been considered a success. Martinez told Andrade that he was preparing an "official communication," which Andrade took to mean a public announcement, concerning the incident. Martinez also said that he had to take *Julio* to the Red Cross because no medical facilities had been pre-arranged. Andrade could not provide any details about the current location of Martinez.

Andrade emphasized in his interview with [REDACTED] that many people believed that he was the planner of the Zona Rosa killings because of his rank in the PRTC but that his role had been as he described. Andrade said he believed that the active participants in the Zona Rosa killings were *Julio*, Martinez, *Ulises*, and Misael Cruz.⁹

Andrade stated that when he contacted *Ulises* for the number of a doctor on the afternoon of June 19, he "knew full well that he was participating in the overall plan which would be carried out at some time in the near future." Andrade also admitted that he knew that an action was to be taken and that it was against "gringos."

⁹ DOJ had no other information concerning who Misael Cruz was or whether he had any involvement in the Zona Rosa attack.

Andrade stated that he had travelled illegally into the United States in the early 1980s and lived in the Los Angeles area with relatives. He returned to El Salvador because he had been run over deliberately by a car driven by African Americans in Los Angeles and was seriously injured. He said that he decided it was just as safe to be fighting in the jungles of El Salvador as it was to be on the streets of Los Angeles.

On June 8, 1989, Andrade was interviewed again by [REDACTED] and Chidester. Andrade stated that he had heard that *Ulises* had taken refuge in the Mexican Embassy in El Salvador after the shootings and that he was later aided in getting out of the country by a man he knew as "Fernando." Andrade identified a picture of the Mexican Ambassador to El Salvador as "Fernando."

On June 14, 1989, the Station reported to CIA Headquarters that Chidester planned to have Andrade polygraphed to verify the extent of his involvement in the Zona Rosa killings.

6. Andrade's Polygraphs

On July 5, 1989, at Chidester's direction, Andrade was polygraphed by the Salvadoran Special Investigative Unit (SIU). In Chidester's interview with OIG investigators, he said that he knew polygraphs were not conclusive, but he believed that, based on the findings of the examination, he would be in a better position to decide on a plan of action with regard to Andrade. According to a CIA cable in June 1989, Chidester believed that if the polygraph substantiated Andrade's claim that he was not directly involved in the Zona Rosa attack, there would be little United States interest in prosecuting him. The cable stated: "Whatever the outcome of the polygraph exam, [Chidester] would be in a better position to decide on a course of action."

In his first polygraph exam, Andrade answered the following questions, with the following conclusions by the SIU polygrapher:

Q: Did you, either individually or in conjunction with others, participate in the planning of the Zona Rosa Massacre?

A: No.

Result: "The polygraph results were indecisive, although the initial inclination was for truthfulness."

Q: Did you directly participate in the attack at the Zona Rosa? (Were you present at the time of the action?)

A: No.

Result: Inconclusive

Q: Did you arrange for medical services and secure a safehouse in the Zona Rosa Massacre?

A: No.

Result: Inconclusive

Q: Did you secure arms for use in the Zona Rosa massacre?

A: No.

Results: Truthful

Q: Did you visit a safehouse with Dimas (*Ulises*) on or about June 15, 1985 to prepare the arms?

A: No.

Results: Truthful

The polygrapher stated that there may have been some difficulty with the exam because Andrade was recovering from a cold and still had a cough. The polygrapher said that under normal circumstances the test would have been rescheduled.

On July 20, 1989, Andrade was polygraphed again by the SIU on the three questions in which the response was considered inconclusive. According to an Embassy cable, the results of the second polygraph supported the truthfulness of his denials of involvement in the murders. The United States Embassy also stated that Andrade was reported to have answered truthfully that the arms used by the PRTC in the Zona Rosa attack originated in Nicaragua and that he recognized a photograph of Rivas as a member of the PRTC but did not recognize Garcia.

In his interview with OIG investigators, Chidester claimed that the FBI had reviewed the polygraph results and concurred with them. We saw no evidence of this. There is no record in the FBI files that it was ever sent the results of this polygraph for review. Moreover, according to an Embassy telegram, the results of the polygraph were sent to the National Academy of Lie Detection (NALD) for quality control, not to the FBI.

Murtagh told us that he was aware that Andrade was going to be polygraphed by the SIU before it happened. He did not remember who suggested that it be done or how he was informed about it. Murtagh said he did not oppose the polygraph, but he knew that it would not resolve all of the concerns about Andrade's involvement in the Zona Rosa killings. Murtagh also said he does not put great stock in polygraphs, having seen someone fail and pass the same questions in different polygraph sessions. Murtagh did not recall why an FBI polygraph was not used, rather than a less-skilled SIU polygrapher. Murtagh did not attempt to stop the SIU polygraph because he did not think it would affect any potential United States prosecution of Andrade.

7. DOJ Efforts to Review CIA Documents

In a letter from Murtagh to the CIA dated June 28, 1989, Murtagh asked for all CIA documents regarding Andrade, including any polygraph results. On July 17, 1989, CIA OGC Attorney ██████ responded in writing that CIA documents were available for review but that it was not possible to release copies of CIA documents before the CIA was advised of their possible use. On July 21, 1989, Murtagh responded to ██████ letter by writing that he was

becoming convinced of Andrade's involvement in the Zona Rosa murders, and he wanted copies of all documents to thoroughly review the matter. His letter stated that he had no plans to release any of the documents without CIA approval.

On July 22, 1989, the CIA Station requested CIA Headquarters' assistance in encouraging DOJ to come to a decision on the Andrade case. The Station explained that it was aware that AUSA Murtagh had said he could not evaluate the case until he received materials from CIA Headquarters. The Station requested that Headquarters facilitate the release of the requested materials to Murtagh so that DOJ could make a decision.

On August 9, 1989, CIA Headquarters reported in a cable to the Station that it was attempting to get a resolution from DOJ on the Andrade case but that DOJ still had not reached any decision on the matter. CIA Headquarters stated that the "Station should realize that potential criminal defendants often try to make 'deals' in exchange for information and that Justice rarely agrees to such 'deals' unless they will be of benefit to Justice in future prosecutions."

The Station responded on August 9, 1989, that Chidester had just returned from Washington and had said that DOJ could not make any decision on the Andrade case because the CIA still had not provided relevant documents to DOJ. According to the cable, Chidester reported that DOJ still had not received documents from the CIA relating to the CIA polygraph of a Zona Rosa defendant [Rivas] because the CIA had not been able to locate these materials. The Station asked Headquarters to ensure that DOJ is "indeed satisfied that [the CIA] is doing its best to cooperate in this case." In September 1989, the CIA made documents available for Murtagh's review.

8. The Embassy's September 1989 Request for DOJ Decision on Prosecution and the Issue of Parole

On September 11, 1989, the United States Embassy in El Salvador sent a cable to DOS requesting that DOJ decline to extradite and prosecute Andrade. Chidester drafted the cable, which was signed by Ambassador William Walker. The cable was sent to DOS' Latin American Affairs Section as well as to Robin

Frank of the Legal Adviser's Office. The cable stated that the Embassy had "meticulously reviewed all telegraphic documents and we believe we have a good idea of the sequence of events of the massacre." The cable said that the "evidence does not support a finding that [Andrade] was involved in either the planning or implementation of the crime." The cable reported:

Embassy has reviewed available files on the Zona Rosa case with a view to determining the extent of culpability of Pedro Antonio Andrade Martinez aka *Mario Gonzales*. The issue is of critical importance because of the alleged knowledge Andrade may have of an intelligence value. [The CIA] would like to exploit Andrade's knowledge but is reluctant to do so until the issue of his involvement in the Zona Rosa massacre is cleared up.

So far the "eyewitness" testimony against Andrade comes from two sources whose testimony was admittedly later discredited: One source, Garcia Melendez, initially believed to have been at the scene and therefore have first hand knowledge, later turns out to have been merely a gofer; Rivas admits to lying [sic] about Garcia's involvement and it is significant to note that during his first statement he made no mention of Andrade.

The cable also referred to the polygraph of Andrade and stated:

He was specifically asked whether he had participated in the planning or the implementation of the crime. He was determined to be truthful in his response that he participated in neither. The results of the polygraph were sent to the United States for a quality control review. The review confirmed the analysis of the original polygraph.

The cable concluded:

We suggest that there is not now sufficient evidence to implicate Andrade as the intellectual author of the Zona Rosa massacre. We recommend that the Department of Justice issue a statement

foregoing any request for extradition of Andrade and acknowledging lack of sufficient evidence to pursue a prosecution at this time would be helpful [sic].

During the OIG investigators' interview of Chidester, he said that he had sought the parole for Andrade in collaboration with the CIA Station in El Salvador. He said that the "whole idea" of bringing Andrade into the United States came from CIA Station employees, who had asked Chidester if there was a way to get Andrade into the United States. Chidester said there was agreement on the Embassy team--including the CIA--that Andrade should receive a parole into the United States because of his intelligence value.

According to CIA Station employees, they initially supported the parole request for Andrade. The COS admitted in interviews that, at least at the time of the initial parole request cable, he did not oppose Andrade's parole into the United States. CIA cables also show that the Station fully supported the Embassy's position on parole for Andrade. On September 22, 1989, the CIA Station in El Salvador sent a cable to CIA Headquarters stating that the Station Chief and the CIA Chief Liaison Officer had met with Chidester and the Consul General of the United States Embassy to discuss Andrade. The cable reported that Andrade had asked to be sent to the United States. The Station asked the Consul General if the offer to send *Mario Gonzales* and his family to the United States was "feasible." The Consul General had reported that the decision was for the Attorney General and suggested that the CIA attempt to influence DOJ's reaction to the State Department's parole request. According to the cable from the Station, the Consul General asked that "[the CIA] chip in to help, at the [Headquarters] level in every way possible that we can. Appreciate [Headquarters] doing the needful [sic]."

On September 25, 1989, the CIA Station sent a request to CIA Headquarters seeking Headquarters' concurrence with a proposal to provide financial assistance to Andrade's family. The Station reported that Andrade had agreed to divulge everything he knew about the FMLN and its activities, to make videos and public appearances "unmasking the FMLN," and to work operationally with the Salvadoran Security Services in exchange for a promise of clemency in El Salvador and a cash settlement of \$10,000 for himself and his

family. The Station proposed setting up a fund for Andrade's family, with an initial amount of \$20,000, with additional monies paid to Andrade's family depending upon the significance of the intelligence he provided.

On September 27, 1989, the CIA Station cabled Headquarters again and requested that a CIA Senior Case Officer contact Chidester, who was in Washington. The Station stated that Chidester had assured the Station that "Justice had no intention of prosecuting Andrade" and, based on this assurance, "Vice Minister Montano authorized the National Police to pass sufficient funds for travel of Andrade's wife to Mexico to bring children back from El Salvador. Montano understood that Station funds would be used for this purpose." The cable further stated:

We will not pass any more funds until [CIA headquarters is] able to clarify situation; however, we are well down the road on this, and it will be extremely embarrassing to the Station, U.S. Embassy, and [the United States Government] if we unable [sic] to get Justice's immediate clearance. Without belaboring the importance of this issue, the *Mario Gonzales* case has been discussed between the Ambassador and President Christiani; the information he is believed to be willing to divulge is anticipated to be explosive, particularly in providing information on arms supply routes and direct links to the Sandinista government.

9. Washington Interagency Meetings Concerning the Parole Request

(a) September 27, 1989, Meeting Between DOJ and CIA

The Embassy's parole request for Andrade was met with skepticism by DOJ, which believed Andrade to be connected to the Zona Rosa attack. AUSA Murtagh and other prosecutors reported to us that they were strongly opposed to granting Andrade a parole into the United States because of his suspected involvement in the Zona Rosa murders.

As a result of the parole request for Andrade, on September 27, 1989, AUSA Murtagh, the lead attorney on the case, and DOJ TVCS attorney Bieh met with CIA OGC attorney [REDACTED] to discuss the Andrade case. According to the recollections of the DOJ attorneys, as well as a Memorandum for the Record drafted by [REDACTED] shortly after the meeting, [REDACTED] told the DOJ prosecutors that Andrade had agreed to provide intelligence information if he and his family were brought to the United States and if he received immunity from prosecution in the United States and El Salvador. [REDACTED] also said that Andrade refused to provide any information until his demands were met and that his intelligence information was deemed to be of sufficient value to take his demands seriously.

Murtagh responded that any request for immunity for Andrade in exchange for intelligence would have to be made in writing and sent through proper channels for DOJ concurrence. Murtagh also said that a final decision on the prosecution could not be made until he was allowed to review all of the information on Andrade held by the CIA. Murtagh stated that his personal reaction was that DOJ would not agree to paroling Andrade into the United States and that a grant of immunity would be contrary to DOJ policy.

An FBI report shortly after the meeting stated that DOJ and the FBI advised [REDACTED] at the meeting that DOJ and the FBI were adamantly opposed to immunity for Andrade and saw no reason to offer him parole into the United States.

On September 28, 1989, CIA Headquarters cabled the Station and stated that, at that time, DOJ had no plans to extradite, indict, or prosecute Andrade or to call him as a witness in the prosecution of other Zona Rosa perpetrators but, "on the other hand, Justice made it clear that it is not willing to grant immunity to Gonzalez or to allow him to be paroled into the United States due to his past activities." The cable stated that DOJ had no objection to the CIA's providing assistance to Andrade's family in exchange for intelligence, but stated that the Station "should refrain from inducing [Andrade] to cooperate by making any other type of commitment to him without prior [CIA Headquarters] authorization." The cable specifically instructed the Station, "In the future, if Station should receive any information from Chidester regarding Justice

plans/intention, for this case, request Station seek guidance from [Headquarters] before taking any action on Chidester's uncorroborated information."

**(b) September 29, 1989, Meeting Between DOJ
and DOS**

On September 29, 1989, DOJ attorneys met with DOS officials at DOS about the parole request for Andrade. Present at the meeting on behalf of DOJ were Murtagh, Biehl, a DOJ Office of International Affairs attorney, and FBI Special Agent [REDACTED]. Robin Frank represented DOS, as did Chidester, who was in Washington at the time.

According to Murtagh's recollection and his notes of the meeting, Chidester described a deal that had been worked out for Andrade with the Salvadoran authorities. Murtagh described the deal as "time served" for Andrade, relocation of his family to a country in the region, and financial assistance in exchange for Andrade's providing intelligence to the CIA. At the meeting, Chidester reported that Andrade wanted to come to the United States. Andrade had been given no promise of immunity regarding United States prosecution and had been told that he would be prosecuted if he had lied about his lack of involvement in the Zona Rosa murders. Murtagh said that he responded that any proposal to bring Andrade to the United States would: (1) have to be in writing; (2) require that the CIA provide DOJ with access to and copies of relevant CIA records; (3) require a written analysis by the CIA of CIA intelligence reports on Andrade's involvement in the Zona Rosa attack and why previous intelligence indicating that he was involved is no longer applicable; (4) require the FBI be allowed access to Andrade; and (5) require that no immunity be granted for Andrade. Murtagh also stated that DOJ was not inclined to agree to parole and that the CIA would probably have to bring Andrade into the country under PL-110 (50 U.S.C. § 403(h)), a law which gives the CIA authority to grant 100 paroles per year to individuals who have made a significant contribution to the intelligence efforts of the United States or whose parole is in the interest of national security.

Murtagh recalled that Chidester said he also believed that Andrade could be useful in testifying against Rivas. Murtagh said, however, that Andrade's

testimony would not be helpful because Andrade could only place Rivas at a cafe in another area of San Salvador prior to the shooting. Chidester also proposed having Andrade provide information against Martinez, the individual who Andrade alleged in his debriefings was the true mastermind of the killings. Murtagh said he never seriously considered a prosecution of Martinez, because DOJ had no evidence against Martinez and did not believe that the self-serving statements of Andrade about Martinez would be useful in a United States trial. (See section II(J)(2), above, for a discussion of Martinez.)

(c) Interagency Meeting on October 5, 1989

On October 5, 1989, an interagency meeting among DOJ, CIA, and DOS was held at DOS to discuss the parole request. Present at this meeting from DOJ were Murtagh, Biehl, DePue, FBI Supervisory Special Agent [REDACTED] and Special Agent [REDACTED]; from DOS were Chidester, El Salvador Desk Officer Pat Butenis, and L/LEI Attorney Andre Surena; and from the CIA were CIA OGC attorney [REDACTED], CIA attorney [REDACTED], and two CIA Central American Task Force employees.

Murtagh reported to us that the point of the meeting was to try to reach an agreement reconciling the CIA's desire to debrief Andrade for information unrelated to Zona Rosa and DOJ's desire not to complicate the prosecution of Rivas or any potential DOJ case against Andrade, if one could be developed.

According to a Memorandum for the Record prepared by [REDACTED] shortly after the meeting, Chidester said that Andrade was prepared to provide intelligence information to the CIA once his family was brought to the United States and provided financial assistance. DOJ agreed not to object to the resettlement of Andrade's family into the United States and its financial support.¹⁰ DOJ also agreed that Andrade could be debriefed on intelligence

¹⁰ As a result of the interagency meeting, on October 6, 1989, the Embassy requested that three of Andrade's children be paroled into the United States. His wife and two other children were already lawful permanent residents. The INS approved the request, and the three children entered the United States on October 25, 1989.

matters not related to Zona Rosa. However, Murtagh and the DOJ attorneys opposed giving any money to Andrade directly. They asked that any money be given to his wife and children so that it did not taint Andrade as a witness in any potential prosecution of other Zona Rosa defendants.

At the meeting, Murtagh took the position that Andrade was involved in the killings and that parole was not appropriate for him. Murtagh stated that the CIA had previously identified Andrade as responsible for the Zona Rosa attack, so it must convince DOJ that this view had been changed by the collection of new evidence if DOJ was going to agree to Andrade's parole. According to [REDACTED] memorandum, Murtagh stated: "If you (CIA) want Justice to concur in a recommendation for parole, you have to explain to us why you don't think he is a murderer." Murtagh also questioned whether it was the CIA's position that Andrade was not involved in the Zona Rosa killings. The CIA attorneys replied that the CIA had not yet adopted a position on Andrade's guilt or innocence but had only collected and reported information on the issue.

Murtagh stated to the participants that there were no present DOJ plans either to prosecute Andrade or to use him as a witness, but he emphasized that he had not yet received access to CIA files and he was not declining prosecution. The CIA argued that Murtagh had been given access in September but had not reviewed the documents yet.

Murtagh said that the United States had information implicating Andrade in the attack, although it did not have admissible evidence sufficient to prosecute him. But Murtagh said he believed that Andrade was involved in the murders and should not be paroled into the United States.

Murtagh emphasized in his interviews with OIG investigators that an agreement was reached during this meeting that any effort to parole Andrade into the United States should be coordinated among the various agencies represented at the interagency meeting. Murtagh believed that, in the event of another request to parole Andrade, a formal document would be submitted to all of the interested agencies involved and a subsequent interagency meeting would

be held to discuss the request before anything happened. Murtagh said there was no contention about this point.

Other DOJ attorneys also remember Murtagh making clear that, although there was insufficient evidence to indict Andrade, the intelligence showed that he was probably involved in the murders. Biehl remembered stating at the meeting that if Congress or the press found out that Andrade was granted a parole into the United States, they "would have a field day." Biehl recalled that there was a "solid understanding" that nothing would happen on the parole unless it was presented to the top levels of the various agencies for any objections. Biehl stated that DOJ could never have agreed to a parole without approval at much higher levels of DOJ, at least at the level of Deputy Assistant Attorney General Mark Richard.

DOJ Attorney John DePue similarly recalled stating at the meeting that DOJ was opposed to the parole of Andrade. DePue suggested that the CIA should use PL-110 to bring Andrade into the country if the CIA wanted him here. DePue made this suggestion because he believed that if the CIA wanted someone brought into the country who had provided intelligence information, it should put the "facts on the table," and Andrade's parole should be vetted by the highest officers of the government. DePue said that his suggestion was roundly rejected at the meeting. DePue believed that the CIA did not think it could satisfy the burden under the statute of showing that it was "in the interest of national security or essential to the furtherance of the national intelligence mission" to bring Andrade to the United States.

An FBI report of the meeting confirms that Murtagh and Biehl informed the CIA that DOJ saw no reason for Andrade's parole. According to the FBI report, Murtagh listed various conditions before DOJ would consider paroling Andrade, such as a written proposal from the CIA, access to all CIA records on the matter, an inventory list of documents that might present problems because they were classified and possibly be discoverable by the defendant in a criminal matter, FBI access to the polygraph of Andrade, and a CIA written analysis of intelligence reports concerning Andrade's involvement in the murders. According to the FBI report, the CIA had not yet taken a position on whether

Andrade was involved in the murders, and Murtagh said that it would have to take a position on Andrade's involvement.

According to CIA attorney [REDACTED] Memorandum for the Record, DOS was also pessimistic that it would agree to parole Andrade into the United States. Andre Surena said that DOS could not argue convincingly for parole but that its position might change if Andrade subsequently provided a great deal of valuable intelligence, so long as no credible evidence establishing his involvement was uncovered, and if Andrade provided credible information linking others to crimes prosecutable in the United States or El Salvador.

[REDACTED] Memorandum for the Record also confirmed that the "meeting concluded with a general agreement that any proposal for the parole of Andrade into the U.S. would require further interagency discussion." In addition, a cable from CIA Headquarters to the El Salvador Station on October 6, 1989, described the meeting by stating:

At this time, no [U.S. government] element appears to be interested in bringing Andrade into the States. Neither the Department of State nor the Department of Justice sees any real advantages from their perspectives to bringing Andrade into the States. Furthermore, both agencies indicated they would want to be assured Andrade was not involved in Zona Rosa before bringing him into the States. At this time, it appears to be premature for [the CIA] to decide whether or not to bring Andrade to the States. It appears that it should not consider this possibility until we see how we proceed with the first step (i.e. relocation of family in exchange for debriefing.)

(d) October 24, 1989, Meeting Between DOJ and DOS

Another meeting was held on October 24, 1989, at DOS concerning Andrade's parole. The only record of this meeting are the handwritten notes taken by DOS attorney Robin Frank. According to her notes, Murtagh, Biehl, Depue, FBI Special Agent [REDACTED], and another AUSA were present, as were Frank and Chidester from DOS. Chidester reported that Andrade had received

immunity from prosecution in El Salvador, that Andrade had been told that he would not get immunity from prosecution in the United States, and that Andrade was to be debriefed in El Salvador. Chidester proposed having Andrade come to the United States or a third country. Chidester also said that he had talked to INS about this subject, and INS was willing to parole Andrade.

Frank recalled that Murtagh said he was making an effort to resolve the unanswered questions about Andrade. Her notes indicate that he was intending to review the CIA documents within a few weeks. Chidester reported that the Salvadoran Special Investigative Unit (SIU) had tapes of a polygraph administered to Andrade. FBI Agent [REDACTED] stated that he wanted the tapes, and Chidester agreed to provide them. Frank recalled that the tone of this meeting was that DOJ was very nervous about the parole of Andrade and believed that there was more work to be done by DOJ to resolve the questions about Andrade. Frank stated that the answer was still quite clearly "no" as to whether Andrade could be paroled into the United States.

(e) Conclusions about Interagency Meetings

Based on our interviews and review of the written record, we found that there was a firm and clear understanding reached at the interagency meetings that Andrade's family would be allowed into the United States and receive financial assistance, that Andrade could be debriefed on intelligence matters unrelated to Zona Rosa, but that parole for Andrade was not appropriate absent further interagency discussions. The door was left open for further consultations about the parole of Andrade, after DOJ's review of the CIA's files. But it was clear that further information would have to come to light to change DOJ's opposition to Andrade's parole. Before any parole was approved, it would have to be the subject of a further interagency meeting, and the parole approval would have to be cleared at higher levels of DOJ than the prosecutors who were at the interagency meetings.

10. Response to the Washington Interagency Meetings

According to OIG investigators' interviews, the United States Embassy in El Salvador was not fully informed of the agreements reached in the interagency meetings in Washington. Ambassador Walker and Deputy Chief of Mission Dieterick did not remember Chidester ever reporting that DOJ was opposed to the parole or that DOJ wanted time to review the CIA files in order to make a decision on Andrade's culpability. Walker and Dieterick also did not remember Chidester ever informing them that further interagency meetings would have to be convened to approve Andrade's parole. The Embassy's Consul General, Nicholas Ricciuti, similarly did not recall ever learning of any opposition to the parole by DOJ or DOS or the need for further interagency meetings on any parole request. There is also no record that the Department of State ever sent a cable to the Embassy summarizing the interagency agreement.

Chidester told OIG investigators that he had no memory of any interagency meeting in Washington that he attended concerning Andrade's parole. During his interview with OIG investigators, Chidester was shown the Memorandum for the Record written by CIA attorney [REDACTED] describing the October 5, 1989, interagency meeting in Washington. Chidester said this memo did not refresh his recollection about the meeting, but if the memo said [REDACTED] was present, he must have been. However, Chidester still did not remember any agreement that, before Andrade was paroled, there would have to be another interagency meeting. He also did not recall anyone from DOJ objecting to the parole of Andrade. He did not even recall being at any interagency meeting with AUSA Murtagh.

Chidester said he thought everyone was in agreement that the United States had taken all steps necessary to determine Andrade's involvement and there was insufficient evidence to prosecute him. Chidester said he never understood that DOJ was looking to further investigate Andrade's involvement. After reading the [REDACTED] Memorandum, however, Chidester stated that it indicated to him that if Andrade provided substantial intelligence, he could be granted parole into the United States. Chidester said that Andrade did, in fact, provide significant intelligence about the FMLN, and the Salvadoran jails "were

filling up with people" based on Andrade's information. As to the last sentence in the [REDACTED] memorandum, which stated that Andrade's parole would require further interagency meetings, Chidester said he did not recall this as a condition for parole.

Other Embassy officials also pointed out that shortly after the interagency meetings, other events in El Salvador became more pressing. In early November 1989, the Salvadoran guerrillas mounted a massive offensive in San Salvador. In Ambassador Walker's words, San Salvador was "blowing up." United States citizens were captured in El Salvador and the Embassy was under constant attack. It was not until the end of 1989 that the guerrilla offensive subsided.

11. DOJ's Assessment of the Case Against Andrade

In November and December 1989, DOJ Attorneys Murtagh and Biehl reviewed the intelligence information in the CIA's files. From their review, they concluded that Andrade was not the "mastermind" or "intellectual author" of the killings, as previously alleged, but that he was involved in the attack. They also concluded that there was not sufficient admissible evidence to bring a case against him in the United States. Murtagh believed that, absent a confession by Andrade that he participated in the attack, there was insufficient evidence to prosecute him.

Murtagh stated that his review of the CIA files also indicated that there were no unexplored leads to investigate on Andrade that did not involve the CIA. Murtagh stated that, based on his experience with the CIA, he did not believe that CIA case officers would be made available to testify at trial or that they would even identify Salvadoran sources and assets for him to use in the prosecution, much less assist in obtaining their testimony. Murtagh also did not believe that Salvadoran intelligence officers would testify.

Murtagh stated that he believed that Andrade would be of little use against others as a witness. Andrade had no real information against Rivas, and Murtagh did not want to make a deal with Andrade to testify against Rivas or anyone else. While Andrade had tried to implicate Martinez as the

mastermind of the attack, Murtagh did not believe there was sufficient evidence against him. Andrade's statements implicating Martinez were viewed as suspect and completely self-serving.

Murtagh said that DOJ did not attempt to toll the statute of limitations on the Zona Rosa crimes, which ran on June 19, 1990, because he did not see any legitimate way to do this. A letter rogatory to the Salvadoran government seeking evidence would have tolled the statute, but Murtagh said he knew of no evidence or documentation in the possession of the Salvadorans that would have been admissible against Andrade in a United States prosecution.

Yet, despite the conclusion that Andrade could not be prosecuted in the United States, Murtagh and other DOJ prosecutors believed that there was sufficient intelligence information implicating him in the Zona Rosa killings and that he should not be paroled into the United States, even if he could not be prosecuted in United States courts.

Murtagh said he never formally declined prosecution of Andrade, in case other evidence eventually surfaced. He reported his conclusions about the Andrade case after his review of the CIA files to the CIA Office of General Counsel, stating, according to a memorandum from a CIA Attorney, "although U.S. prosecution of Andrade may never be possible because of the unavailability of witnesses and the potential inadmissibility [sic] in U.S. court of certain evidence implicating Andrade, there is no doubt that Andrade is culpable to some degree in the Zona Rosa massacre."

12. CIA's Review of Intelligence on Andrade

The CIA undertook an independent review of its intelligence files concerning Andrade's involvement in the Zona Rosa attack. This information was the same set of materials reviewed by the DOJ attorneys. According to a memorandum from OGC Attorney [REDACTED] dated December 21, 1989, the CIA had substantial intelligence in its files linking Andrade, under his alias *Mario Gonzalez*, to the Zona Rosa attack.

First, during Garcia's interrogation by the Salvadorans, he stated that he was introduced to *Mario* by *Ulises* and that *Mario* explained to Garcia the plan for establishing the upholstery shop as a cover for PRTC activities. Garcia stated that *Mario* was the chief of guerrilla "cells." *Ulises* told Garcia on June 14, 1985, that an operation to kill some Americans was being planned and that *Mario* and *Julio* were doing preliminary surveillance. As described above, Garcia confessed to participating in the Zona Rosa murders and that *Mario* was on the scene of the attack, directing the squad that provided security. Garcia later recanted this statement, saying that he was coerced into the admission by Salvadoran authorities and that he was not at the scene of the murders.

Second, guerrilla leader Mario Americo Duran (Duran), aka "Commandante Hugo," was captured by the Salvadoran police in August 1985. He stated that *Mario Gonzales* was a member of the FMLN steering committee. Duran said that *Mario Gonzales* devised the plan for the Zona Rosa killings without coordinating with the rest of the FMLN general command. Duran said that he met with *Mario Gonzales* frequently in the Zona Rosa. Duran recalled that once, when he noticed the presence of United States Marine security guards, he told Gonzales that the Marines would make a good target for an attack.

Third, when Rivas was arrested in August 1985, he said that his immediate supervisor in the PRTC was *Mario* and that *Mario* had ordered Dimas (*Ulises*) to undertake the Zona Rosa massacre. Rivas stated when interrogated by the Salvadorans that *Mario* had met with the Zona Rosa perpetrators at the Cafe Don Pedro just before the killings. *Mario* had spoken briefly with Dimas out of earshot of the others and then had driven away. Dimas told the group that its targets were North Americans and the details of their location. Dimas stated that *Mario* had given him a full description of exactly where the targets were located.

Fourth, Jose Anibal Masferrer Valladeres (Masferrer), a member of the PRTC Metropolitan Front, is reported to have stated to a National Police employee that the person who directed the Zona Rosa operation was still in San Salvador. An unidentified Salvadoran liaison speculated, without stating the reason, that the person referred to was *Mario Gonzales*. Masferrer also stated

that *Mario Gonzales* had gone to Mexico after the killings. Masferrer also identified *Mario* as the author of an October 20, 1985, internal PRTC documents, under the alias "F. Frank," that used the term "intellectual author" to describe the role of *Mario* in the attacks.

Fifth, guerrilla Pedro Vladimir Rodriguez Guardado was captured in January 1986 at a house where numerous weapons were stored. During interrogation, he said that *Ulises* and *Mario* took weapons from the house two days before the Zona Rosa attack.

Sixth, PRTC documents captured in July 1988 stated that the PRTC Command was having difficulty with *Mario Gonzales*, who had a "pénchant for acting individually rather than for the collective good." This suggested to the CIA report that *Mario* may have acted on his own authority in planning the Zona Rosa attack.

Seventh, PRTC military/political commander Axel Armando Orellana Mena (Orellana) was captured by the Salvadorans on April 11, 1989. Orellana stated that Miguel Mendoza, the acting Secretary General of the PRTC, had said that he had learned that *Mario Gonzales* was responsible for the planning and execution of the Zona Rosa attack. Mendoza told Orellana that in January 1986, PRTC Secretary General Roberto Roca called a meeting of the PRTC high command to discuss the Zona Rosa killings and stated that *Mario Gonzales* had failed to consider the consequences of the killings and did not coordinate a plan to withdraw PRTC urban commandos from the metro area after the attack. Orellana also said he was familiar with the details of the attack from a written report that he believed was written by *Mario Gonzales*. Orellana believed that *Ulises* played a major role in preparing for the attack and scouting out the site, and *Mario* took the basic plan and refined it. Immediately after the attack, *Mario* was in San Salvador evacuating PRTC urban commandos. *Mario* then went to Mexico for one year. Information provided by Orellana led to the capture of Andrade on May 29, 1989.

Eighth, when Andrade was arrested by the Salvadorans, he admitted that he was *Mario Gonzales* and that he was asked to arrange a safehouse and medical support.

On January 3, 1990, CIA Headquarters sent to the Station a cable reporting its conclusions that Andrade was implicated in the Zona Rosa attacks. The cable also reported that AUSA Murtagh believed that the CIA documents, as well as Andrade's own admissions, contained sufficient intelligence to conclude that Andrade was involved in the planning of the attack, notwithstanding his apparent passing of a polygraph examination. The cable stated:

The AUSA has concluded that, although a U.S. prosecution of Andrade may never be possible because of the unavailability of witnesses and the potential inadmissibility in U.S. court of certain evidence implicating Andrade, there is no doubt that Andrade is culpable to some degree in the Zona Rosa massacre.

The cable concluded that any future proposal by CIA to provide assistance to Andrade would be met with strong resistance from DOJ.

On January 23, 1990, another cable was sent from CIA Headquarters to the Station attempting to clarify the Headquarters position about the Station's dealings with Andrade. Headquarters stated that the January 3, 1990, cable containing the conclusions of the AUSA did not preclude the Station from providing assistance to Andrade's family. The cable stated:

Station should be aware, however, that a Headquarters review of relevant documents on the Andrade case, a review independent of the AUSA's review, indicates that Andrade, despite the results of his polygraph test, may have played a much more central role in the Zona Rosa massacre than we had previously been led to believe. In fact, the documents point to Andrade as probably having masterminded the Zona Rosa slayings of U.S. Embassy Marine guards. . . . [DOJ] could well initiate charges against him were he to travel to the U.S. and additional evidence against him became available here. If that were to happen, then information on any contacts he may have had with [CIA] officers could be ruled to be discoverable evidence. . . .

13. The Parole Request Cable in March 1990

In January 1990 Andrade was promised by the Salvadorans that if he cooperated fully in debriefings, the time he had served by the end of his debriefings would be considered the penalty for his guerrilla activities. On January 15, 1990, a Salvadoran judge authorized Andrade's release from prison, to take effect only after Andrade was debriefed. According to Chidester, Andrade was kept in jail, for his safety, while he provided intelligence on guerrilla operations.

(a) The Request

On March 27, 1990, a cable from the United States Embassy requesting the parole of Andrade was sent to Washington. The cable was drafted at Chidester's request. It was addressed to the DOS Visa Office and DOS Office of Central American Affairs. Informational copies were sent to the CIA and the FBI. No copy was directed to the DOS Legal Adviser's Office or to the DOJ attorneys, who were participants in the interagency meetings on Andrade.

The cable began by stating that Andrade's wife and five children were residing in New Jersey and that the "Embassy Legal Officer made arrangements in the Department and with INS for Andrade at the same time as for the family members mentioned [in the previous telegrams]." There is no written record in INS files indicating that the Embassy or Chidester had made any arrangements with INS for Andrade's parole before the March 27 request. The INS employee who approved Andrade's parole did not recall any discussions about the parole at the time that the arrangements for the children were made.

The cable then described Andrade's provision of valuable information on the FMLN, including the location of the largest arms cache ever discovered in the San Salvador area. The cable stated that because of his cooperation, Andrade was in "grave danger of being murdered by his former comrades."

The cable explained that Andrade, also known as *Mario Gonzales*, was believed to have been the intellectual author of the Zona Rosa murders but that,

"under intense and extensive interrogation by Salvadoran authorities, an Embassy officer, and an FBI agent, Andrade has denied participation in the Zona Rosa crime." It also stated that Andrade had passed two polygraphs and that the government of El Salvador had dropped all charges against him in connection with the Zona Rosa killings. The cable stated: "Post does not believe that Andrade was involved in the Zona Rosa crimes and supports the [Government of El Salvador's] decision to drop charges against him. Embassy Legal Officer Chidester has requested that he be named the 'Responsible Officer' in this case."

The cable concluded:

Because Andrade is in clear and immediate danger of losing his life, and because he has provided valuable information to the United States, Post recommends him for humanitarian parole. Due to his past associations, Andrade is not eligible for Priority One Refugee Status. On humanitarian grounds alone, it is consistent with U.S. practice in other cases to grant parole to an individual who is threatened by Marxist terrorists. This is especially the case when he has provided information useful to the U.S. In addition, the active collaboration of a former insurgent leader of Andrade's stature helps to advance U.S. goals in El Salvador, and we should be willing to take some measures to protect such persons. It is in our national interest to provide humanitarian parole as part of our effort to save Andrade's life.

The cable did not mention anything about the interagency agreement or even the existence of a criminal investigation by DOJ into Andrade's involvement.

(b) Responsibility for the Parole Request

In the OIG interviews, there was much discussion about who was responsible for this parole request. When Chidester was first questioned by DOS in July 1990 about the parole request, he stated that it was CIA's responsibility. In response to a later request from DOS asking who was responsible for the parole, Chidester wrote that he asked the Embassy's

Consular Section to initiate the parole request. A July 16, 1990, cable from the Station to CIA Headquarters stated that the Station had played no role in influencing the Embassy in its "decision to authorize Andrade's humanitarian parole." The cable stated:

From the beginning we have made it clear to Embassy Legal Officer Richard Chidester that we neither objected to nor were pushing for Andrade's parole into the U.S. . . . Throughout the Andrade debriefing ordeal, we pointed out to Chidester we did not really care whether Andrade ended up in the U.S. or elsewhere. When Chidester informed us he had obtained approval for the parole, he told us all concerned U.S. agencies were on board.

In his interviews with OIG investigators, Chidester stated that the effort to parole Andrade was a cooperative effort with the CIA Station and that he was "extending a service to help [the Station] get information they wanted [from Andrade]." Chidester said that the idea of bringing Andrade into the United States was not the Embassy's original idea. Rather, he said he was asked by the Station, "Can you find a way to bring him to the U.S.?"

Chidester emphasized that there was always agreement on the Embassy team, including the Station, that Andrade should be paroled into the United States in return for his intelligence information. Chidester stated that sometime shortly before he initiated the parole request again in March 1990, the CIA Station Chief advocated pushing forward with the request for Andrade's parole. Chidester said "to say they [the Station] would not have been in agreement on this is beyond my comprehension." Chidester said he did not recall the Station or the Station Chief ever changing their views on Andrade's parole. Nor did he recall the Station Chief ever reporting that CIA Headquarters had sent a cable concluding that Andrade was culpable for the murders. Chidester stated that the Station fully supported the parole request, even buying Andrade's plane tickets to leave. Chidester said that he did not coordinate with anyone from CIA Headquarters about the parole, but thought that the Station would have done that.

The Embassy's Deputy Chief of Mission, William "Jeff" Dieterick, also believed that the CIA asked the Embassy for help in getting Andrade paroled into the United States. Dieterick stated that he would be very surprised to hear that the Station Chief and Deputy Chief had stated that the CIA did not seek the parole. Dieterick believed at the time that the CIA was behind the effort to get Andrade paroled, and he said he could not imagine what other reasons Chidester would have had for pushing it. Dieterick did not recall if he had discussed the parole directly with the CIA Station Chief; but Dieterick thought that he might have because they were fairly close. Ambassador Walker also agreed that the parole request was fully coordinated with the Station. He said the CIA never changed its position that Andrade should be paroled into the United States, and he was quite sure the Station was consulted about the parole request.

The Embassy's Consul General, Nicholas Riccuiti, told OIG investigators that after recently speaking with Chidester and Ambassador Walker, he now recalls that the CIA had been the original impetus behind the parole. Riccuiti stated that he is convinced that the Station cleared the parole request before it went out, despite the fact that they do not appear on the cable as having done so. Riccuiti explained that there was room only for three clearance lines on the cable in the computer system at that time, so that all who cleared on a document did not always show up on the document itself. Riccuiti stated that it was the policy for his junior officers to clear such matters with the Station. Riccuiti also stated that the term "Secret Noform" on the cable was not a term used on Embassy cables, but rather CIA language that must have been suggested by the CIA.

DOS employee B. Glen Griffin was a junior officer in the consulate section of the Embassy. He prepared the parole request. He told OIG investigators that it was his first such parole request and that Chidester wrote most of it. Griffin recalled that later practice was to have a parole request cleared by the Chief of Station, but this was his first preparation of a parole request, and in this case he is not sure there was a CIA clearance. He cannot recall whether he walked this request through the approval process. He believes that Chidester handled it. He said that Chidester told him that he had "worked it all out with Post."

By contrast, the CIA Station Chief was interviewed three times during this review, and he vacillated over the course of the interviews about the Station's involvement in the parole. During the first interview, he said that the Embassy sought a parole for Andrade to the United States but that he recommended against it. He said that he had not seen the March 1990 parole request cable when it was sent and that he first learned about it in July 1990 when Andrade was in the United States.

During his second interview, with all OIGs present, the CIA Station Chief stated that the Station was "probably" in favor of getting Andrade out of El Salvador initially. But he said that once he received the intelligence information from CIA Headquarters in January 1990 about Andrade's involvement in the Zona Rosa murders, he did not support the parole request for Andrade. He saw the Embassy's March 1990 parole request cable shortly after it was sent and was upset that he was not consulted, not that it had gone out. He did not inform CIA Headquarters about the parole request, however.

During his third interview, after Chidester and Walker had said that the CIA concurred in Andrade's parole request, the CIA Station Chief stated that he initially favored Chidester clarifying Andrade's situation so that intelligence could be gained from him. But after the Station received the January 1990 cable from CIA Headquarters, he no longer thought that parole was a possibility. He stated that he informed the Embassy of CIA Headquarters' findings that Andrade was probably involved in the Zona Rosa killings but did not tell the Embassy that the CIA opposed any parole because he did not believe that the January cable expressed such opposition. He said that the parole was not his problem, and that he was surprised when it was granted. He stated, however, that he thought he should have notified CIA headquarters of the parole request.

The Deputy Chief of Station (DCS) told OIG investigators that he believed that Chidester first brought up the possibility of parole for Andrade. The DCS stated that he would have respected DOJ's position on parole if he had been aware of it and that the only way the Station would have supported the parole was if it was under the impression that all agencies involved were

satisfied and concurred that parole was appropriate. The DCS also recalled discussing the possibility of Andrade's going to a third country because the United States was not going to take him.

The DCS could not recall the exact circumstances of Andrade's parole request, but he believed that at some point Chidester told him that the parole was about to be approved. The DCS said that Chidester knew the facts best and had been dealing with all of the agencies involved. The DCS stated that the CIA did not oppose the parole, but certainly did not push for it. The DCS did not recall seeing the March 1990 cable requesting parole for Andrade.

(c) Addressees on the Parole Request

Unlike previous cables addressed specifically to DOS attorneys Andre Surena or Robin Frank, or containing the specific message "Pass to AUSA Murtagh" or "Pass to D.C. U.S. Attorney's Office," the March 1990 parole request cable did not include directions to send it to Frank, Murtagh, or DOJ. Walker and Chidester reported to OIG investigators that the parole request was sent through the normal channels for requests for visas or parole: to the DOS Visa office and to the Central American Affairs Desk. Moreover, they noted that an information copy was sent to the FBI, a part of DOJ. In addition, a copy was sent to CIA Headquarters.

Chidester said that specific names of those involved in Andrade's case--such as Frank, Surena, or the DOJ attorneys--were not included on the cable because the Embassy was following what it thought was the normal process for a parole request. Chidester stated that coordination for any required interagency meetings should have occurred in Washington, through the DOS desk officer, in response to the parole request cable. Chidester said that he was not trying to sneak the parole request through the system or attempting to do anything underhanded. Walker agreed, stating that before DOS gave an answer on the parole request, it could have and should have coordinated with the appropriate agencies, instead of relying on the Embassy in El Salvador to determine who should be involved.

It is clear, however, that when the parole request was sent to Washington, it did not elicit the appropriate treatment. The parole request cable was never received by DOJ prosecutors, who would have strongly objected to the request. No one from DOS, the CIA, or the FBI ever notified the prosecutors of the proposed request. Murtagh, Biehl, and DePue told OIG investigators that they did not see the cable or learn about Andrade's parole until after he had entered the country. We leave it to the DOS and CIA OIGs to determine why no one from their agencies noticed the cable or notified the interagency participants of the parole request. We will examine the FBI's actions upon receipt of the cable and its failure to forward the cable to the prosecutors.

14. The FBI's Handling of the March 1990 Parole Request Cable

FBI Headquarters received a copy of the Embassy's March 27, 1990 parole request cable. On April 3, 1990, Headquarters forwarded the parole request in teletype form without comment to the FBI's WMFO, the field office responsible for the Zona Rosa case, and to the FBI's Legat in Mexico City, the office that was assisting with the Zona Rosa investigation in El Salvador.

(a) FBI Headquarters' Handling of the Cable

Our review found that FBI Headquarters personnel who received the parole request cable never notified DOJ prosecutors about its contents, as they should have done.

When the Embassy's March 27 parole request cable was received at FBI Headquarters, it was forwarded to the International Terrorism - Global Unit, the unit responsible for the Zona Rosa case. At the time, incoming cables were normally reviewed by the Unit Chief and passed to the Supervisory Special Agent (SSA) responsible for the particular matter. The SSA would normally give instructions to a research analyst on how to proceed with each cable.

In this case, it does not appear that the Unit Chief at the time, Robert Blitzer, ever saw the parole request cable. He did not recall seeing it when it

came in, his initials do not appear on the cable, which is his normal practice when he reviews one, and he did not write the name of the SSA to whom the matter was assigned on the document, which is also his normal practice.

The cable was forwarded, however, to SSA [REDACTED], the SSA in the Unit who was responsible for the Zona Rosa case. He had attended an interagency meeting in the fall of 1989 concerning Andrade's parole. He gave the cable to research analyst [REDACTED], with instructions to forward copies of the cable in teletype form to WMFO and the Mexico City Legat. No request for action was included on the teletypes. [REDACTED] sent the teletypes, as requested. The teletypes repeated the cable's contents verbatim and did not add any instructions or comments for WMFO or the Mexico City Legat. [REDACTED] name appeared on the teletype as the originator.

Blitzer reported that the role of the field offices was primarily to investigate and collect evidence of a crime. He said that it was incumbent upon FBI Headquarters--specifically the unit responsible for a case--to handle interagency communications and notifications on such a matter like this.

Blitzer also stated that the Zona Rosa case was considered to be a "front burner" case in his unit and anything that came in on the case should have received close scrutiny. He said that, upon receipt of a parole request in such a high-profile case, the Unit Chief should have assigned the request to the SSA for review. The SSA and a research analyst would have reviewed the information available to the FBI concerning the person seeking a parole and would have made a recommendation to the Unit Chief on whether to concur with or oppose the parole request. The Unit Chief would have made his own assessment, and given the sensitivity of the case, probably consulted with higher-level FBI officials. Blitzer also stated that the DOJ prosecutors should have been informed of the parole request and been given a chance to object.

None of these things happened with the Andrade parole request. Blitzer did not see the parole request, although it was sent to the appropriate SSA. The SSA and the research analyst stated, however, that there was no request for FBI action by the Embassy contained in the parole request cable, and they viewed the cable as informational only. [REDACTED] said that he thought that this was

not an actual request for parole authorization, and that DOS would be setting up interagency meetings, as occurred with in the fall of 1989 when the issue of parole was first raised, before parole was authorized. He thought that the FBI would have a chance to make its objections to parole during such meetings. But no meetings were convened, and FBI Headquarters never notified DOJ prosecutors about the cable.

(b) Mexico City Legat's Handling of the Cable

When the cable was received by the Mexico City Legat, it was read and initialed by Special Agent [REDACTED], who had interviewed Andrade in June 1989. It was also read and initialed by the Legat, Joseph Gannon.

As noted above, [REDACTED] had interviewed Andrade in June 1989 when the Panama City Legat who worked on the Zona Rosa case was unavailable. [REDACTED] was not the case agent assigned to the Zona Rosa murders. Rather, he performed tasks at the request of FBI Headquarters or WMFO, the office responsible for the Zona Rosa case. [REDACTED] stated that a Legat is responsible for responding to requests from FBI field offices in the United States for investigative help. [REDACTED] said he was never personally responsible for the Zona Rosa case. Although he had been copied for informational purposes on previous cables outlining the interagency meetings about Andrade, he was never asked to do anything about those informational cables.

[REDACTED] said he did not recall seeing the March 1990 parole request cable. He stated that, if he had seen it, he would not have viewed it as something on which he needed to act. [REDACTED] said he would have assumed that the parole had been discussed at a higher level in Washington. He also said the case agent on the Zona Rosa case in WMFO should have taken any necessary action concerning the cable.

[REDACTED] supervisor, Gannon, did not recall seeing the cable. He stated that he probably forwarded the cable to [REDACTED] for his information, but that he did not view the cable as requiring any action by the Mexico City FBI office. He said that if any discussions or notifications needed to occur, that should have happened in Washington.

(c) WMFO's Handling of the Cable

The parole request teletype was also received at the FBI's WMFO and read and initialed by Acting Supervisor [REDACTED] and Special Agent [REDACTED]. The copy of the teletype in WMFO's files contains the notation: "Al: Let's brief Murtagh on this. F."

[REDACTED] was the FBI case agent responsible for the Zona Rosa matter when the Andrade interagency meetings were held in September and October 1989. [REDACTED] also participated in the grand jury investigation and indictment of Rivas. In early April 1990, [REDACTED] became the Acting Supervisor of the WMFO Counterterrorism Squad, and the Zona Rosa case was assigned to Special Agent [REDACTED].

At the request of OIG investigators, [REDACTED], now stationed in Cairo, Egypt, reviewed the parole request teletype. [REDACTED] said he recalled seeing this teletype and thinking that something about which he was not aware must have occurred at a higher level in DOJ. He confirmed that he had written the note on the bottom of the teletype reading "Al: Let's brief Murtagh on this. F." [REDACTED] said that this was a note to [REDACTED], the case agent assigned to the matter when the teletype was received. [REDACTED] said he recognized that Murtagh should have been informed of the teletype, if he did not already know, and through the note he wrote on the teletype he was asking [REDACTED], the case agent, to do it. [REDACTED] said he was transferred to FBI Headquarters two weeks later - on April 16. He had no further contact with the Zona Rosa case and did not check with [REDACTED] to determine whether he had actually briefed AUSA Murtagh about the parole request.

We also interviewed [REDACTED] about his recollection of the parole request teletype and showed him a copy of the teletype. [REDACTED] initials appear on the teletype next to his name. He said he remembered being assigned to the Zona Rosa case but he had no recollection whatsoever of the teletype, even after reviewing it. He did not remember if he briefed Murtagh about it. We found no evidence in FBI's file that he did.

(d) **Conclusions Regarding the FBI's Handling of the Parole Request Cable**

No DOJ prosecutor learned about the parole request cable at the time it was sent. We leave to the other OIGs to provide a discussion of what happened in their agencies and an explanation for why the DOJ prosecutors were not apprised, pursuant to the interagency agreement, of the parole request. But we find that the FBI's failure to brief the prosecutors about the parole request was a serious omission. Had this been done, the prosecutors would have strenuously objected to Andrade's parole, and we have no doubt that it would not have been granted.

FBI Headquarters had the primary responsibility for notifying DOJ prosecutors of the parole request and for marshalling any FBI objection to the request. Headquarters failed to do either and must be faulted for this lapse.

We do not think that the Mexico City Legat can be faulted for not passing on the information in the parole request. The Mexico City Legat office was responsible for handling investigative tasks and also for "pinch hitting" on the Zona Rosa case for the Panama City Legat. The Mexico City agents reasonably believed that the parole request teletype was an informational document forwarded to them, like other documents, to keep them abreast of current developments. But no request for action was made to them, and they should not be expected to pass this information back to Washington prosecutors.

While Headquarters, and not WMFO, was primarily responsible for the handling of the parole request, WMFO did realize the significance of the request and should also be faulted for not alerting the DOJ prosecutors. Special Agent [REDACTED] properly recognized the importance of the teletype and recognized that AUSA Murtagh should be briefed about it. That was never done, despite specific instructions to the case agent to do so. Understanding how this breakdown occurred is difficult, if not impossible, because of the passage of time and the inability of the agents to recollect precisely events that took place many years before. Whatever the reason, it was a failing for WMFO not to pass on the information about the parole request to Murtagh.

The failings of FBI Headquarters and WMFO are mitigated, however, by the context of the parole request. The parole request did not contain a request for FBI action as is normally the case. It was not sent directly to Murtagh, as it should have been and as other cables about the Zona Rosa case had been. Because the Embassy sent what appeared to be a routine request for humanitarian parole without addressing it directly to the necessary parties, the cable could have been overlooked or mishandled, which is what happened. Moreover, one would have expected DOS, the agency requesting the parole, to coordinate with the essential parties--here the DOJ prosecutors--on the request.

This does not excuse the FBI. But it is apparent that a number of omissions occurred across several agencies, only one of which was the FBI's failure to apprise the prosecutors about the parole.

C. Granting of the Parole Request by INS

On April 24, 1990, Jim Kiefer, an Immigration Officer in the INS Office of International Affairs, approved Andrade's parole. Kiefer specifically recalled the Andrade parole request because Gladys Lujan of the DOS Visa Office hand-carried it to him, with a letter dated March 30, 1990, from the Associate Director for Visa Services at DOS to the Commissioner of INS. The letter stated:

I am enclosing one humanitarian parole request for consideration by the Attorney General. This request has been reviewed by the Department of State and is considered to be within the appropriate guidelines established for such cases.

Kiefer explained to us that in 1990, cables from Embassies requesting parole came to INS through DOS. (Such cables now go directly from Embassies to INS.) Kiefer said that parole is granted under § 212(d)(5) of the Immigration and Nationality Act, which gives the Attorney General discretion to grant paroles for "emergent reasons" or "for reasons strictly in the public interest." For administrative reasons, INS separated parole requests into two categories--humanitarian parole and parole in the public interest. Parole in the

public interest was a parole that would be of some benefit to the United States for whatever reason, while humanitarian parole had to be for some humanitarian purpose. In 1990, Kiefer handled both humanitarian and public interest paroles. Kiefer said that ninety percent of public interest paroles relate to criminal justice cases--either witnesses, defendants, or informants being paroled into the United States because of their benefit to the United States. Kiefer handled more than 100 such requests per year.

According to Kiefer, when Lujan delivered the parole request, she told him that she was personally bringing it to him because it was a "hot case" with a lot of pressure from the United States Embassy in El Salvador and because the request contained a classified cable. Kiefer said he remembered that he and Lujan also had lunch together after Lujan delivered the cable.

Kiefer said that INS generally grants paroles requested by DOS, without further investigation, unless the requests are inconsistent with current INS policy. Absent such special circumstances, none of which were apparent here, it was highly unusual for INS to deny a DOS request. Kiefer stated that the DOS request for Andrade's parole was a typical one that would have been taken by INS at face value. Kiefer said that everyone who is paroled into the United States "in the public interest" is ineligible for regular immigration for one reason or another. Kiefer noted that DOS certified in the parole request cable that Andrade had provided a service to the United States government and that his life was in danger. INS would not have undertaken an independent review of such a matter. Kiefer stated that his reading of the cable also indicated to him that the FBI had looked into the matter and that it was in favor of the parole.

Kiefer said that Andrade was probably given a three-year parole because he had relatives in the United States, and three years was the normal amount of time in which a parolee could apply for and receive permanent resident status through relatives. The normal length of parole has since been changed to six months to ensure more contact with the parolee and to allow INS to reassess more frequently the propriety of allowing the parolee to remain in the United States.

We believe that INS did not act improperly when it processed Andrade's parole in conformity with its normal procedures. INS relied on DOS, the government agency proposing the parole, to have properly coordinated with any other interested agency. INS did not normally, and should not be expected to, conduct an independent investigation into the facts of each parole request, the identity of interested agencies, or the positions of all interested agencies on each of its hundreds of parole requests. It was not unreasonable for INS to rely on the requesting agency to coordinate the parole request in advance and to provide notice to INS that the parole request was opposed by other agencies.

D. Andrade Enters the United States

On April 25, 1990, DOS notified the Embassy in El Salvador that INS granted Andrade's "parole in the public interest for three years from 4/27/90 to 4/26/93." Andrade did not enter the United States until late June 1990. Chidester reported that between April 25 and late June 1990, Andrade was providing detailed intelligence information and producing a CIA-funded propaganda film denouncing the Salvadoran guerrillas.

On June 26, 1990, the Embassy issued a boarding letter for Andrade to leave El Salvador for the United States. The CIA paid for Andrade's plane tickets. His flight was scheduled to depart on June 28. On that day, the CIA Station cabled CIA Headquarters that Andrade planned to leave for the United States the same day on a parole that had been arranged by the Embassy through the State Department "in coordination with concerned agencies in the U.S."

Andrade entered the United States on June 28, 1990 through Miami, Florida. INS records reflect his parole "in the public interest" on that date.

E. DOJ Attorneys Learn About Andrade's Parole

On July 10, 1990, AUSA Murtagh was first informed of the parole request and Andrade's entry into the United States. Murtagh learned about the parole in a call from either DOS attorney Andre Surena or CIA Attorney [REDACTED]. Murtagh said he was surprised and furious when he found out that Andrade had been paroled into the United States.

A memorandum for the record written by CIA attorney [REDACTED] on July 10, 1990, stated that he learned that DOS attorney Surena had just called Murtagh, who had been surprised about Andrade's parole. [REDACTED] then called Murtagh, who confirmed that he had not known about the parole previously. Murtagh emphasized his belief to [REDACTED] that Andrade was implicated in the murders, although there still was insufficient evidence available to mount a prosecution."

Murtagh said he thought that the CIA had "pulled a fast one," with Chidester's help, in getting Andrade paroled into the United States but there was not much Murtagh could do about it. Murtagh assumed that the parole was "a CIA operation" and that he was powerless to change the result. Murtagh said he spoke with his supervisors and that they agreed with his assessment. He did not pursue any effort to have Andrade deported. He said deporting persons already in the United States is much more difficult than preventing them from being admitted, especially if they have relatives here. Murtagh said he considered going public with the information about Andrade's parole, but he realized that he should not do this. He also wanted to, but ultimately did not, question the CIA about how Andrade was paroled into the United States.

TVCS attorney Biehl said he found out in July 1990 that Andrade had been paroled into the country when Murtagh called him. Biehl said that Murtagh was angry that Andrade had been paroled into the United States. Biehl agreed that it was fruitless to try to get Andrade deported; because Andrade had not received his parole by any fraud, but rather based on a request from DOS.

At some later time, Murtagh received a telephone call from Chidester, who was in the United States. Chidester stated that Andrade was in the Los Angeles area and wanted to be a witness against Martinez. Murtagh told Chidester, "Thanks, but no thanks," because Murtagh did not want to use Andrade as a witness. Moreover, as noted above, Murtagh said there was no evidence against Martinez. In addition, the statute of limitations had already

Moreover, on June 19, 1990, the statute of limitations had run on the Zona Rosa crimes

run on any prosecution. Murtagh did not discuss the circumstances surrounding Andrade's entry into the United States with Chidester, and he did not speak with Chidester again.

F. DOJ OIG Conclusions with Regard to Andrade's Parole

Based upon our review of the record, DOJ's judgment that there was insufficient evidence to prosecute Andrade was reasonable. Most of the information in the CIA files was inadmissible hearsay. It was also gained through intelligence sources, which would have complicated its use. There was no indication that any of the witnesses against Andrade would be available to testify in a United States court. Moreover, Andrade's passing a polygraph and the Embassy's belief that he was not involved made any case against him difficult notwithstanding the inadmissibility of the polygraph results.

Andrade's worth as a witness was also minimal. His statements pointing to Martinez were self-serving and contrary to other information about Andrade's involvement in the murders. Andrade's evidence against Rivas was also indirect and not noteworthy.

We nevertheless believe that DOJ's objection to Andrade's parole was supportable. Significant intelligence, as opposed to admissible evidence, implicated Andrade in the Zona Rosa attack. Even his own statement indicated he had some involvement in preparations for the attack.

We also conclude that the March 1990 parole request for Andrade was mishandled by many people, including the FBI. We have no doubt that there was a clear interagency agreement between DOS, CIA, and DOJ, arising from the October 5, 1989, interagency meeting, that while Andrade could be debriefed in El Salvador by the CIA about intelligence matters, any proposal for the parole of Andrade into the United States would require further interagency discussions and agreement. DOJ's strong opposition to the parole was known--both in Washington and at the Embassy. The participants in the interagency meetings understood or should have understood that any future parole request must be coordinated with all the agencies involved.

Regardless of who was responsible for seeking the parole request--and there is significant disagreement among witnesses about that--it is clear that it should have been forwarded to all agencies concerned, and an interagency meeting should have been convened to discuss the proposed parole. This never happened. As a result, Andrade's parole was approved in the routine procedures dealing with parole requests.

The fault in this matter must be shared by many parties. The Embassy should have sent the parole request to the interested parties or notified them of it, rather than relying on a routine parole request to accomplish this task.

DOS employees who received the cable should have convened another interagency meeting to discuss the parole request.

We leave it to the CIA Inspector General to determine if CIA employees handled the parole request properly.

With regard to DOJ employees, the FBI failed to handle the parole request appropriately. When the parole request was received, FBI Headquarters and, to a lesser extent, WMFO, should have notified the DOJ prosecutors about the request.

It was not improper for INS to approve the parole request as it did. INS received no information about any controversy or objections to the parole when it reviewed the parole request. Absent any such indication, INS' reliance on representations in the DOS cable was appropriate.

We also find that the coordination of paroles needs improvement. The process for the approval of visas is better coordinated, with opportunity for objection by law enforcement to proposed visas in certain categories of cases. A procedure requiring coordination of parole requests should be considered. Such coordination would ensure that all the information necessary was available to the decision-maker and would keep other parole requests from slipping through the system, as this one did.

G. Current INS Actions Regarding Andrade

The recent focus of attention on Andrade's case has caused INS to review Andrade's immigration status. Beginning in January 1996, INS Office of General Counsel attorney Mary Jane Candaux began collecting information about Andrade from DOS, the CIA, the FBI, and the District of Columbia United States Attorney's Office to determine possible grounds for his exclusion.

Candaux learned that Andrade is living with his wife and children in New Jersey. Andrade's wife is a lawful permanent resident who has applied to become a United States citizen. To date, Andrade's wife has not filed a petition with INS to sponsor Andrade as a lawful permanent resident. Andrade's public interest parole expired after three years, and there is no record in INS that he applied for an extension when it expired. He is therefore currently in an illegal status.

In March 1996, an FBI agent was sent to El Salvador to gather documents about Andrade's guerrilla activities from the Salvadorans. The documents could be used to exclude Andrade from the United States. Candaux also sought CIA documents about Andrade's guerrilla activities. Candaux said that the CIA would not allow her to take copies of the documents and redacted her notes concerning the documents. In addition, the CIA said it could not locate specific CIA cables that she requested regarding Andrade's parole.

INS is preparing to proceed against Andrade in exclusion proceedings and has stated that it will do its best to exclude and deport him from the United States. In her interview with OIG investigators on August 5, 1996, Candaux said that INS has not yet made a final decision with regard to the details of how to proceed with Andrade's case. First, INS has to decide whether to attempt to exclude Andrade and, if so, on what grounds. Candaux stated that INS is leaning towards moving to exclude him as a "person without documents," because Andrade's parole has expired and he has not moved to renew it. If INS tried to exclude Andrade as a suspected terrorist, it would need to use classified documents to prove this charge, and the documents would have to be

disclosed to Andrade. The documents also could be used to rebut anticipated applications for relief from deportation.

On the other hand, if INS showed that Andrade is a "person without documents," the burden would shift to him to prove he is entitled to relief, perhaps by requesting political asylum. To receive political asylum, Andrade would have to prove that he has a well-founded fear of persecution in El Salvador and that the fear is based on one of five statutory grounds. The relevant grounds in this case will likely be "political opinion" or "membership in a particular social group." Alternatively Andrade could seek an "adjustment of status" because he is married to a lawful permanent resident or United States citizen. Yet, to receive an "adjustment of status," Andrade would have to prove that he is admissible to the United States. INS could contest this with evidence of his past terrorist activities on behalf of the PRTC and could use classified information in this part of the proceeding without turning it over to Andrade.

Candaux reported that exclusion proceedings, once initiated, can be very lengthy. If Andrade were detained, however, the process could be put on an expedited calendar and a hearing on the merits held within four to six months. If Andrade were not detained, the initial hearing usually would be held within one to two years, and a subsequent appeal to the Board of Immigration Appeals could take another one or two years. An appeal to a federal court of appeals could take an additional year or two. Candaux added that under the Immigration Act as amended by the Antiterrorism and Effective Death Penalty Act of 1996, exclusion of aliens without documents can be expedited. In order to take advantage of the expedited processes, however, exclusion proceedings would have to be initiated after November 1, 1996.

Candaux stated that a federal district court reviewing a decision by INS to detain Andrade would balance the largely hearsay evidence that Andrade was a terrorist against the fact that he has lived in the United States for six years, is married to a lawful permanent resident who has applied for citizenship, has two children who are lawful permanent residents, and has evidently lived a law-abiding life in the United States. It might also consider Andrade's provision of intelligence to the United States government, which resulted in his parole in the

first place. The standard of review in a motion for habeas corpus that Andrade might file is whether the government has shown the alien to be a danger to the community and a risk of flight. Candaux stated that INS cannot show Andrade is currently a danger to the community but might be able to show he poses a risk of flight. However, Candaux was not confident that INS could win such a motion.

Candaux reported that INS is currently sorting out the classified and non-classified information on Andrade. Candaux stated that she is hopeful that a decision on the Andrade matter will be made in the near future at INS Headquarters.

H. Gilberto Osorio

1. Introduction

On May 21, 1995, a "60 Minutes" show discussed United States military involvement in El Salvador. Gilberto Osorio appeared on the show and admitted to being a guerrilla in El Salvador. He stated "we had made it a point to target some American servicemen" in an effort to induce the United States Congress to withdraw United States military advisors from El Salvador. The "60 Minutes" narrator, Ed Bradley, claimed that Osorio had admitted that he had helped plan the Zona Rosa massacre. In an interview published in the "San Francisco Examiner" on May 28, 1995, however, Osorio denied that he had admitted participation in the Zona Rosa murders.

This section will describe the information in DOJ's possession concerning Osorio and his participation in guerrilla activities.

2. DOJ Information on Osorio Before 1995

On July 10, 1985, the CIA asked the FBI to search its files for information on Gerardo Zelaya in connection with the Zona Rosa murders. The CIA had obtained Zelaya's name from documents captured from guerrillas. These documents did not indicate that Zelaya was personally involved in the Zona Rosa attacks, but suggested that he was a member of the PRTC. The

CIA gave to the FBI Zelaya's name; which the CIA knew to be an alias, his date of birth, and information from the seized documents that he had participated in the occupation of the Salvadoran Consulate in San Francisco in 1978. Zelaya was also reported to be a sculptor who had worked at an art gallery in the San Francisco area.

From this information, the FBI was able to identify Zelaya to be Romeo Gilberto Osorio. The FBI reported that Osorio had occupied the Salvadoran Consulate in a protest occurring in April 1978. He was arrested in the protest, but the charges against him were later dropped.

The FBI also had information about Osorio in its files that had been obtained from a source in 1980. The source had notified the FBI that Osorio and Salvador Martinez of the Committee of Progressive Salvadorans (CPS) would be travelling from the United States to El Salvador in February 1980. The source advised that Osorio was one of the founding members of the CPS, which was formed in November 1979 to support the Bloque Popular Revolucionario (BPR), a Marxist terrorist group composed of students, peasants, and labor unions whose objective was to establish a Marxist government in El Salvador. The source also reported that Osorio had worked on "El Pulgarcito," a Salvadoran newspaper. The source reported that Osorio and Martinez were going to travel to Mexico City, where they would meet with Rafael Manjivar, a member of the Communist Party of El Salvador. They would then travel to El Salvador to establish direct contact with the guerrilla groups and join them in the struggle in any capacity that the Coordinadora [Leadership Coalition of Leftist Groups in El Salvador] wanted. The source advised that Osorio wanted to join the fighting groups or terrorists.

On July 10, 1985, another FBI source reported that Osorio and an unknown companion had gone from San Francisco to El Salvador in 1980. The source stated that the companion had been killed in fighting in El Salvador and Osorio had been wounded.

On July 22, 1985, the FBI reported to the CIA that the FBI San Francisco office had not heard any "talk on the streets" from its sources about

the involvement of Osorio in the Zona Rosa killings. On July 23, 1985, the FBI forwarded two sets of black and white photographs of Osorio to the CIA.

On December 4, 1985, the FBI located and interviewed [REDACTED], [REDACTED]. She stated that Osorio was born in San Francisco on March 1, 1947, but had grown up in El Salvador. When he was 18, he returned to the United States to join the United States Air Force. He served in the Air Force from 1966 to 1970, stationed at Travis Air Force Base. When he was discharged, Osorio attended San Francisco State University, where he first majored in physics. He later changed his major to art. [REDACTED] reported that Osorio had left for El Salvador sometime in 1980. She had heard from him only sporadically since then and believed that he was still living in El Salvador. The FBI was unable to locate records of Osorio's birth at the San Francisco General Hospital.

3. Recent FBI Interview of Osorio

On December 4, 1995, at the request of DOJ attorneys, the FBI interviewed Osorio in San Francisco. Osorio was informed that DOJ had requested the interview based on the recent media reports which suggested that he was involved in the Zona Rosa murders.

Osorio denied participating in the Zona Rosa murders. He told the FBI that he came from a large, prominent family in El Salvador which had family members in both the military and the government. In 1975, while living in San Francisco, he became involved in Central American political issues and was distressed by reports of violence against those who opposed the government in El Salvador. He believed that "death squads" were responsible for the death and disappearance of thousands of people in El Salvador, including religious leaders. Osorio said his political activities caused his family in El Salvador to consider him to be a "black sheep."

In January 1980, he and two friends travelled to El Salvador to assist the movement to overthrow the Salvadoran government. Upon arrival, they contacted members of the FMLN through an acquaintance and told the FMLN

members of their interest in participating in the revolution. Osorio and his friend were placed on probation status in the FMLN and given certain tasks to perform so that the FMLN could assess them and guarantee that they were not government informants. After about six months of screening, Osorio was accepted into the FMLN and assumed the name "Gerardo Zelaya." Osorio initially worked as an urban guerrilla in San Salvador for the Popular Liberation Front (FPL) "disrupting communications and transportation."

During 1982 and 1983, Osorio served as Chief of Operations for a 300-member battalion of the PRTC in San Vicente Province, about 80 kilometers northeast of San Salvador. During this time, its members came under attack from government forces. Osorio was told by his battalion members that Salvadoran government forces were being directly assisted by United States military advisors. Because these advisors were not supposed to be involved in the actual fighting, Osorio gave orders to treat any Americans encountered on the front lines the same as Salvadoran troops and to kill them if possible. Osorio stated that neither he nor his fighters ever actually killed any Americans.

In 1983, Osorio left the front lines and became an aide to guerrilla leader Nidia Diaz (whose true name is Maria Marta Valladares). Valladares is currently a member of the Salvadoran Congress. She was then a member of the Central Committee of the PRTC in San Vicente. Osorio worked on propaganda targeted at the civilian population and other "ideological matters." Osorio worked in this position for two and a half years.

Osorio stated that in 1985, when the Zona Rosa attack occurred, he was about 100 miles north of San Salvador. He said that he did not know about the attack in advance and was not involved in it. Osorio said that Valladares and Congressman Francisco Jovel could confirm that he was not involved in the Zona Rosa attacks.

Osorio said that when he learned that the Mardoqueo Cruz unit of the PRTC had claimed credit for the killings, he felt good about it for three reasons. First, it indicated to him that there were PRTC commandos in San Salvador. He had previously thought that the city was too tightly controlled by

the government for commandos to operate. Second, he thought the killings would publicize the issue of the United States military in El Salvador and bring to light the real role the Americans were performing. Finally, Osorio felt that it might help weaken the resolve of Americans to continue fighting in El Salvador.

Osorio stated that after the Zona Rosa killings, the air war intensified against the FMLN. In an effort to reduce casualties, FMLN units dispersed into the countryside.

Osorio said he continued to work for Valladares from 1985 to 1987, but moved from place to place during a restructuring of the PRTC. He was transferred to Guazapa and encountered two of the eight individuals who participated in the attack. The two introduced themselves as *Ulises* and *Walter*. Osorio reported that one of the two was later killed in an accident and the other was killed in combat. Osorio stated that to the best of his knowledge, the three individuals who were convicted and sentenced to prison for the attack in El Salvador are the only individuals involved in the Zona Rosa attack who are still living.

Between 1987 and 1989, Osorio was a PRTC Unit Commander. He was placed in charge of explosives units consisting of seven to ten individuals who operated in the northern part of El Salvador. Osorio had no training in explosives and learned everything on the job. He and his unit constructed various types of explosives for use in the field, including anti-personnel mines, land mines, and grenades. Osorio set up explosives-producing shops along the Honduran border. These shops produced numerous explosive devices for use in the guerrilla war. To his knowledge, none of the explosives were ever used against North American military personnel, civilians, or property.

Osorio was questioned about the "60 Minutes" segment and Ed Bradley's statement that "in 1985, Osorio says he helped plan the assassination of four Marines at this outdoor cafe." Osorio denied any involvement in the killings and said that he had protested to "60 Minutes" the statements attributed to him. Osorio said that "60 Minutes" had issued a clarification of Osorio's statement four weeks later. Osorio stated that he had agreed to participate in the "60

Minutes" taping in order to publicize the United States involvement in El Salvador and the corresponding need to recognize the United States military personnel who served there. Osorio added that the other participants in the taping, United States Army Green Beret Greg Walker and retired General Joseph Stringham, told him that they knew he was not involved in the killings.

Osorio denied ever having worked for the CIA or any other United States government agency. Osorio said he returned to the United States in December 1991. He stated that he worked at the Mission Cultural Center in San Francisco. Osorio said he received a \$3500 grant from the National Endowment for the Arts in 1992 for an experimental project on the Mayan calendar. The project involved dance, sculpture, masks, and music.

Osorio stated that he never knew anyone named Pedro Antonio Andrade. On December 6, 1995, he told the FBI agent who had interviewed him that he had heard that newspapers in El Salvador had recently reported that Pedro Antonio Andrade was suspected of working for the CIA.

In interviews with OIG investigators, the DOJ attorneys assigned to the Zona Rosa case said that they had never heard the name Gilberto Osorio before the "60 Minutes" broadcast. After that broadcast, DOJ Attorney Biehl took the lead in investigating Osorio. Biehl uncovered no evidence linking Osorio to the Zona Rosa attack. As discussed above, during the week of February 20, 1996, an FBI agent travelled to El Salvador to review all evidence in the possession of the Salvadoran authorities concerning Rivas, Pedro Andrade, and Gilberto Osorio. The FBI agent reviewed the National Police files, but did not find any mention of Osorio.

AUSA Murtagh said that while Osorio may have cheered the Zona Rosa attack, he could not be prosecuted for it, even if the statute of limitations had not run. Moreover, he could not be excluded from the United States because he is a United States citizen.

Our review of DOJ files uncovered no evidence that Osorio or "Gerardo Zelaya" was involved in the Zona Rosa attack.

V. DOJ INFORMATION ON REPRISALS FOR ZONA ROSA MURDERS

This Section answers SSCI's Question Eight; which states:

What specific action and or information does DOJ now have or did it provide regarding any reprisal for the Zona Rosa terrorist act?

DOJ had no information or documents concerning any alleged United States military reprisal or Salvadoran military reprisal for the Zona Rosa killings.


Michael R. Bromwich

September 19, 1996

Attachment A

Chronology of DOJ Actions and Significant
Events in the Zona Rosa Matter

CHRONOLOGY OF DOJ ACTIONS AND SIGNIFICANT EVENTS IN THE ZONA ROSA INVESTIGATION

June 19, 1985 --	Zona Rosa murders.
June 22, 1985 --	PRTC claims responsibility for the attack.
July 19, 1985 --	U.S. government announces \$100,000 reward.
July 25, 1985 --	FBI Legat instructed to collect background information on Zona Rosa murders.
July 25, 1985 --	FBI Legat requests FBI laboratory assistance on behalf of Salvadoran investigators.
August 4, 1985 --	Garcia detained by the U.S. Border Patrol, implicates Rivas and <i>Ulises</i> , and identifies <i>Mario</i> as key figure in murders.
August 12, 1985 --	Rivas arrested and admits role as a shooter in attack. Dimas arrested.
August 15, 1985 --	Garcia voluntarily deported to El Salvador.
August 20, 1985 --	Rivas signs statement admitting role in attack.
August 24, 1985 --	CIA polygraphs Rivas.
August 30, 1985 --	Rivas, Dimas, and Garcia make statements at press conference regarding their roles in attack.
January 17, 1986 --	Pedro Vladimir Rodriguez Guardado arrested at safehouse and identifies <i>Mario</i> and <i>Ulises</i> as retrieving guns two days before attack.

- November 12, 1987 - Salvadoran military court dismisses charges against Rivas, Dimas, and Garcia on grounds of amnesty. Release of prisoners stayed pending appeal.
- November 19, 1987 - DOJ prosecutors and FBI meet to develop investigative plan if perpetrators are released.
- December 11, 1987 - DOJ officials meet with Salvadoran Attorney General and Minister of Justice in Washington to ask for Salvadoran cooperation in potential U.S. prosecution of the suspects.
- February 15, 1988 - Trip to El Salvador by DOJ attorneys to investigate case.
- February 22, 1988 - President Duarte overturns military court decision dismissing case on basis of amnesty.
- April 10, 1988 -- Second trip to El Salvador by DOJ attorneys.
- April 20-23, 1988 - Grand jury testimony by witnesses in Washington, D.C..
- July 13, 1988 -- Morales arrested by Salvadoran authorities and confesses to being part of group that carried out the Zona Rosa attack.
- November 1, 1988 -- FBI Prosecutive Report completed.
- November 10, 1988-- DOJ prosecutors obtain sealed criminal complaint and warrant against Rivas.
- May 29, 1989 -- Witness [REDACTED] brought to the U.S.

May 28, 1989 -- Pedro Antonio Andrade, head of Mardoqueo Cruz Urban Commando, arrested on charges unrelated to murders and admits he is *Mario Gonzales*.

May 30, 1989 -- CIA requests FBI to run traces on Andrade.

May 30, 1989 -- CIA OGC informs AUSA of arrest of *Mario Gonzales*.

June 1, 1989 -- AUSA learns *Mario Gonzales* has been identified by CIA as responsible for attack.

June 6-8, 1989 -- Andrade interviewed by FBI and Embassy Legal Officer.

June 7, 1989 -- Interagency meeting at DOS, with DOJ and CIA present, regarding prosecution of Andrade.

July 5, 1989 -- SIU administers polygraph to Andrade. Some of his denials of involvement found to be "inconclusive."

July 20, 1989 -- Andrade re-polygraphed on three questions that were inconclusive in first test. His denials of involvement are reported to be truthful.

September 7, 1989 - U.S. Ambassador tells DOS that amnesty is being reconsidered and President Christiani may be willing to expel Rivas and Garcia to the U.S.

September 11, 1989- Embassy cable to DOS states it has concluded Andrade not involved in murders and requests that DOJ decline to extradite or prosecute Andrade.

September 15, 1989- Grand jury issues sealed indictment charging Rivas with violations of 18 U.S.C. §§ 1116 and 1117.

September 27, 1989-	Meeting between CIA and DOJ prosecutors regarding Andrade's parole request.
September 29, 1989-	Meeting between DOS and DOJ prosecutors regarding Andrade parole request.
October 5, 1989 --	Interagency meeting between DOS, CIA and DOJ on issue of Andrade parole. Agreement that parole will not be granted absent further interagency meetings.
November and December 1989 --	DOJ Prosecutors review CIA files and remain convinced of Andrade involvement in murders.
December 21, 1989 -	CIA OGC concludes there is substantial intelligence implicating Andrade in the Zona Rosa attack.
December 22, 1989 -	CIA OGC notes DOJ's substantial objection to parole of Andrade and recommends review of propriety of continued CIA dealings with him.
January 3, 1990 --	CIA cable to Station states: "AUSA believes Andrade involved despite polygraph results and any CIA proposal to provide assistance to Andrade would be met with strong resistance."
January 15, 1990 --	Salvadoran Judge authorizes Andrade's release from prison upon completion of his debriefing.
January 23, 1990 --	CIA cable to Station states that CIA review of intelligence information indicates Andrade probable mastermind of Zona Rosa murders.

January 31, 1990 -- CIA OGC notifies DDO that DOJ and CIA OGC have concluded that Andrade was heavily involved in the Zona Rosa murders and advises against debriefing him unless benefits outweigh possible adverse consequences.

March 27, 1990 -- Embassy sends parole request for Andrade to DOS, with copies to CIA and FBI.

March 30, 1990 -- DOS takes request to INS and asks that the matter be "considered to be within the appropriate guidelines established for such cases."

April 3, 1990 -- FBI forwards parole request to WMFO and Mexico City Legat.

April 24, 1990 -- INS grants Andrade parole.

June 19, 1990 -- Statute of limitations runs on United States prosecution of Andrade.

June 28, 1990 -- Andrade enters the United States.

July 10, 1990 -- DOJ prosecutors learn of Andrade's parole.

April 30, 1991 -- Rivas convicted of Zona Rosa murders and sentenced to 25 years. Garcia convicted of subversive association and sentenced to 11 years (later reduced to 7 1/2 years). Dimas convicted of subversive association and sentenced to four years (served nearly seven).

March 5, 1992 -- Convictions of Rivas, Garcia and Dimas affirmed by Salvadoran appeals court.

March 9, 1992 -- Dimas released from prison, having served his sentence.

March 1993 -- Garcia released from prison, having served his sentence.

August 18, 1993 -- Morales acquitted of charges and released from prison.

May 21, 1995 -- "60 Minutes" reports that Gilberto Osorio admitted to participation in the Zona Rosa attack.

June 21, 1995 -- DCI questioned regarding Osorio in closed SSCI hearing.

September 7, 1995- Rivas is released under 1995 Salvadoran law providing that minors cannot be sentenced to more than seven years.

October 12, 1995 -- DOJ, CIA, and DOS brief SSCI on Osorio and Andrade in closed hearing.

December 6, 1995 -- Osorio interviewed by FBI and denies any involvement in the murders.

January 1996 -- INS begins collecting information in effort to exclude Andrade from the U.S.

February 22, 1996- SSCI sends letter to Attorney General, Secretary of State, Secretary of Defense, and Director of Central Intelligence requesting a government-wide review of the response to the Zona Rosa murders.



March 1996 -- FBI agent travels to El Salvador and reviews evidence on Rivas, Osorio, and Andrade.

May 15, 1996 -- Rivas indictment unsealed.

Attachment B

Glossary of Terms and Names

GLOSSARY OF TERMS AND NAMES

AUSA	Assistant United States Attorney
ANDRADE, Pedro Antonio	Alias <i>Mario Gonzales</i> , alleged mastermind of Zona Rosa killings. Paroled into U.S. in June 1990 for three years.
BIEHL, Dana	DOJ Criminal Division attorney assigned to Zona Rosa prosecution (November 1987 - present).
BIROS, Mark	AUSA assigned to Zona Rosa prosecution (November 1987 - January 1988).
BOLANOS Rivas, Jose Antonio	Alias <i>Macias</i> , one of the four gunmen in attack, never captured.
CHARGE D'AFFAIRS	Head of U.S. Embassy when an ambassador has not been confirmed.
CIA	Central Intelligence Agency.
COS	Chief of CIA Station.
CAFE DON PEDRO	Cafe where assailants allegedly met before the massacre.
	
CANDAUX, Mary Jane	Attorney, INS Office of General Counsel.

CHIDESTER, Richard	DOS Legal Officer in El Salvador (March 1989 - June 1991).
CHILI'S	Restaurant where U.S. Marines were killed.
CORREA, Carlos	Attorney, DOJ Office of International Affairs (1987 - 1989).
DCM	Deputy Chief of Mission at U.S. Embassy. Second in command under the Ambassador or Charge d'Affairs.
DCS	Deputy Chief of CIA Station.
DOD	Department of Defense
DOJ	Department of Justice
DOS	Department of State
DEPUE, John	Attorney, DOJ Criminal Division.
DIAZ, Nidia	Guerrilla leader captured in 1985.
DICKSON, Bobby J.	U.S. Marine killed in attack.
DIETERICK, William "Jeff"	Deputy Chief of Mission, U.S. Embassy in El Salvador (August 1989 - June 1992).
DIMAS Aguilar, Jose Abraham	PRTC guerilla who was arrested, charged, and convicted in El Salvador for subversive association.

DIMAS Aguilar, Ismael

Alias *Ulises*, gunman in Zona Rosa attack. Believed to have been killed in a battle with the Salvadoran military at the Guazapo Volcano.

DURAN, Mario Americo

Alias Commandante Hugo, guerrilla leader captured by the Salvadorans.

FBI

Federal Bureau of Investigation.

FMLN

See Farabundo Marti National Liberation Front.

FARABUNDO MARTI NATIONAL
LIBERATION FRONT

A Marxist-Leninist guerrilla organization.

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

FRANK, Robin

Attorney, DOS Law Enforcement and Intelligence Section of Legal Advisor's Office (March 1987 - March 1990).

GALVIN, General John

Commander of the U.S. Military's Southern Command (1987 - 1989).

GANNON, Joseph

FBI Legat, Mexico City.

GARCIA Melendez, Juan Miguel

Arrested entering U.S. in 1985. Deported to El Salvador and charged and convicted of subversive association.

GENERAL LITIGATION
and ADVICE SECTION (GLAAS)

Section of DOJ's Criminal Division that handled terrorism matters before the creation of the Terrorism and Violent Crime Section.

GONZALES, Mario

Alias of Pedro Andrade.

HANDWORK, Thomas J.

U.S. Marine killed in attack.

HANNON, J. Michael, Jr.

AUSA assigned to Zona Rosa prosecution (January - December, 1988).

JOVEL Urquilla, Francisco
Alberto

Alias *Commander Roca*, believed to be the head of the PRTC.

JULIO

Gunman killed at the scene of the attack. Tentatively identified as Jose Roberto SALAZAR Mendoza.

KIEFER, Jim

Immigration Officer, INS Office of International Affairs. Approved Andrade parole.

KWIATOWSKI, Patrick

U.S. Marine killed in attack.


LEGAT

FBI Legal Attache office in a foreign country.

LUJAN, Gladys

Chief, DOS Visa Office in March 1990.


MACIAS


Alias of Jose Antonio Bolanos Rivas.


MARDOQUEO CRUZ

Branch of PRTC believed to be responsible for the attack.

MARROQUIN, Roberto
Ernesto Sanchez


Alleged leader of PRTC interviewed by FBI in Houston, Texas.



MARTINEZ, Rogelio


Alias of Jose Manuel Melgar.

MASSFERRER Valladares, Jose
Anibal

PRTC leader, provided information on *Mario Gonzales* to CIA liaison.


MELGAR, Jose Manuel


Alias *Rogelio Martinez*, claimed by Andrade to be the mastermind of the Zona Rosa attack.

MORALES, Juan Antonio Lucero

Arrested in 1988, allegedly confessed to providing security in attack. Acquitted by Salvadoran court in 1993.

MOTLEY, Langhorne Anthony

Assistant Secretary of State for American Republic Affairs in June 1985.

MURTAGH, Brian

AUSA assigned to Zona Rosa prosecution (December 1988 - present).

PASSAGE, David

Deputy Charge d'Affairs, U.S. Embassy in El Salvador (June 1984 - June 1986).

PRTC


Partido Revolucionaria de los Trabajadores Centroamericano -- one of the five branches of the Farabundo Marti National Liberation Front (FMLN).

ORELLANA Mena, Axel Orlando

PRTC military commander captured by Salvadorans who gave information on *Mario Gonzales*.

OSORIO, Gilberto

U.S. citizen involved in guerrilla fighting in El Salvador. "60 Minutes" alleged he admitted involvement in Zona Rosa killings.

 in Zona Rosa cafe, identified Rivas in a line-up.

PEPE	Alias of guerrilla involved in attack. True name unknown.
RIVAS Bolanos, William Celio	Gunman in attack. Prosecuted in El Salvador and received 25 years, but served only 10. Indicted in U.S.
RODRIGUEZ Guardado, Pedro Vladimir	Arrested by Salvadorans at a house with a large guerrilla arms cache.
RUANO, David Wilber Villalta	Arrested at upholstery shop when Rivas was arrested. Later released.
SALAZAR Mendoza, Jose Roberto	Believed to be true name of <i>Julio</i> , gunman killed at the scene of the attack.
SIU	See Special Investigative Unit.
SPECIAL INVESTIGATIVE UNIT	Salvadoran law enforcement unit trained by U.S. law enforcement agencies.
SURENA, Andre	Attorney, DOS Law Enforcement and Intelligence Section of Legal Advisor's Office.
TERRORISM and VIOLENT CRIME SECTION	Section of DOJ's Criminal Division.
TVCS	See Terrorism and Violent Crime Section.
ULISES	Alias of Ismael Dimas Aguilar.

WALKER, Ambassador William

U.S. Ambassador to El Salvador
(August 1988 - March 1992).

WALTER

Allegedly provided security during
Zona Rosa attack. True name
unknown. Believed to have been
killed in a battle with the Salvadoran
military at the Guazapo Volcano.

WEBER, Gregory O.

U.S. Marine killed in attack.

WMFO

FBI's Washington Metropolitan
Field Office.

ZELAYA, Gerardo

Alias for Gilberto Osorio.

ZONA ROSA

"The Pink Zone," restaurant and
shopping district in San Salvador.